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Natural Resources Committee
October 05, 2009

[LR128 LR181]

The Committee on Natural Resources met at 9:00 a.m. on Monday, October 5, 2009, in Minnechaduzza Conference Room at Valentine's Niobrara Lodge for the purpose of conducting an interim hearing on LR128 and LR181. Senators present: Chris Langemeier, Chairperson; Annette Dubas, Vice Chairperson; Tom Carlson; Deb Fischer; Ken Haar; Tom Hansen; Beau McCoy; Ken Schilz; and Kate Sullivan. Senators absent: Tanya Cook. []

SENATOR LANGEMEIER: Good morning, everyone, and welcome to Valentine, and I say that from Senator Fischer as I welcome myself to Valentine. We're here today for an interim study on LR128 as well as LR181. First of all, I'd like to introduce those people sitting around us today. We have more than just the Natural Resource Committee, and we would like to welcome our guest senators with us, and we appreciate their willingness to come out with us today. Starting on my far right, your far left we have Barb Koehlmoos, the committee clerk for the Natural Resources Committee. Then we have Senator Tom Hansen from North Platte, Nebraska. We have Senator Ken Schilz from Ogallala, Nebraska. We have Senator Tom Carlson from Holdrege, Nebraska, and then the local favorite, Senator Deb Fischer (laughter) from Valentine, Nebraska. I am Senator Chris Langemeier and the chairman of the Natural Resources Committee. To my left we have Laurie Lage, the legal counsel for the Natural Resources Committee. To her left, we have Vice Chairman of the Natural Resources Committee, Senator Annette Dubas, and then to her left, we have Senator Ken Haar from Malcolm, Nebraska. And then to his left, we have Senator Beau McCoy from Omaha, and then Senator Kate Sullivan. I'd like to also welcome former senator, Howard Lamb, who came with his wife, Jo, that are in the crowd. We saw them come in. Welcome and thanks for coming back. As we start today, most of you saw...I saw you at the table over there to testify, there is a green sheet that looks like this on the table over here. As you come up to testify, we'll ask that you fill this out and please fill it out before you come up to testify. There's a basket here on the table. Please put it in the basket when you come

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

up as you testify. For those of you that want to be here but don't want to testify, but you want us to have you on record as being here in some position there's also this form over there that you can fill out and write your name on and what your thoughts are. And so we will put you in the record as having attended but not testified. We would ask at this time if everybody would turn their cell phones off so we can respect those that are going to testify in front of you. As you come up to testify today, we'll ask that you state and then spell your name before you start your testimony. That way for the transcribers, we get your name right for the future transcript and history of this event. You'll see in front of you the little colorful lights. You will get a green light...I'm going to play with the lights. You're going to get a green light. Everybody gets five minutes to testify. With one minute left, she'll turn you to yellow, and then at red that's when we would ask you to conclude. With that, anything else? Oh, and this is a little different than a legislative hearing. For the interim studies we don't take proponents, then opponents, then neutral testimony. Just come on up as we continue to progress through it and give your testimony. We won't take it in any particular order, just in the order in which you wish to come forward. And if you do have copies of your testimony you'd like the committee to have, please give it to Barb and she'll get it distributed to the committee. We ask that normally those of you who had testified before, we ask for ten copies. If you have a couple more for our extra guests here today, we'd appreciate it. But we know many...as I look over the faces, many of you have testified before us before so if you just have ten copies that is fine. Anything you happen to bring along to hand out for us to look at, we will enter it into the record, so if you have some family photos you want to show us please just show us from the table because if you hand them to us you're not going to get them back so keep a hold of it if you want to keep it because if you give it to us to look at, we will take it and make it part of the record. And so with that, we are going to start with the first resolution which is mine which is LR128, and I'm going to go over there just because I want to see if that's all going to work. Are we ready? My name is Chris Langemeier, C-h-r-i-s. Langemeier is L-a-n-g-e-m-e-i-e-r. I'm here today to introduce LR128. It's an interim study to examine in essence...I'm not going to read the title or tell you the title. The idea of it was to create a statewide water plan. Many states have done

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

it. Nebraska did it in 1971. As chairman of the Natural Resources Committee, on many occasions I go across the state, and I've had the opportunity to meet a lot of people that have said, we need a statewide water plan. What's the future of water in Nebraska? What's the future uses going to be? How can we continue to develop our natural resources and use it to its fullest extent? So the idea of LR128 was not to come up with a plan this year but was to talk about a definition. Over the hundreds of people that I've met across this state and talked to them about a statewide water plan, every single one of them had a different definition. So I decided that we should do a hearing and have everybody give us their testimony for a statewide water plan and I can tell you I sent this out to everybody on the Water Policy Task Force, and a number of other people that are...been a big part of water across Nebraska for many, many years, and they have been very gracious to work on letters. You'll see them...and the senators will see them in their books as everybody has written me kind of a definition. There's about 20, 25 of them in your book that people across the state have sent in that have defined what a statewide water plan is. This isn't a plan, in my opinion, as we look to find a definition...this isn't designed to create a plan that we're going to put on the shelves in the great halls of the Nebraska Legislature, and we're going to enforce and mandate from the Legislature. We can set that straight right now. The idea is is to decide what should be in a statewide water plan, how do we get Game and Parks? How do we get our NRDs? How do we get our surface irrigation? How do we get everybody in the world of playing with water, our recreational uses? How do we make a big picture, so we can meet the needs of everybody in Nebraska? We can continue to grow with economic development using our resource. And so with that, I'll conclude. I will take questions if anyone has a question for me at this time, but at this point in this what I'm calling statewide water plan is the opportunity to define what a statewide water plan should look like and who should be included. Questions? I'm off the hook easy. You've heard my opening. Now we'll take testifiers, those who would like to testify or if you'd like to give your thoughts. I know I've had a lot of them come in in letter form ahead of time. If you'd like to testify, please come forward. Goll, look at that, I stumped the whole room. Come on up. Time is of the essence. Come on up, Jay. While he fills out a sheet, I think

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

I sparked a thought. Go ahead, and do you want to sit kind of on deck there and get your sheet filled out and. Welcome. [LR128]

JAY REMPE: (Exhibit 1) Thank you. Senator Langemeier, members of the Natural Resources Committee and other invited guests, my name is Jay Rempe, J-a-y R-e-m-p-e. I am vice president of governmental relations for Nebraska Farm Bureau. Just wanted to do a couple of things here this morning and thank you for inviting us up here to the beautiful Valentine area, Senator Fischer. We were hoping maybe for some sunny weather to see the foliage, but... [LR128]

SENATOR FISCHER: We never mind the rain. [LR128]

JAY REMPE: No. (Laugh) Let me do a couple of things this morning. I did submit a letter with some comments on behalf of Nebraska Farm Bureau on a statewide water plan, and I just wanted to hit a couple of points there and not reiterate everything. But the other thing I wanted to do is maybe give a little bit of background on why we feel statewide water planning process and the discussion of it might be important. What I've handed out to you, and this idea actually came...Tim Anderson on a conference call last week suggested that maybe we share this with you is a study that was performed by Dr. Charles Lamphear. If you know Dr. Lamphear, he was the head of the Bureau of Business Research at the University of Nebraska for a number of years, retired in the early 2000s. We contacted him about doing a study...on updating actually a study that was done in the mid-'80s, looking at the economic importance of irrigation to the state. So he took the year 2003 and did a study and looked at what irrigation meant to the state in 2003. If you remember, 2003 was a drought year, and so irrigation was very important. But what he found...I think a couple of things to take away from the study. One, irrigation contributed \$4.5 billion to the state's economy that year which that amounts to roughly about \$2,600 per person in the state at the time. And since then I would probably suggest that that's even grown because of the number of irrigated acres that has grown since then and commodity prices are a little different than what they

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

were in 2003 as well. So I'd imagine the impact has grown since then, but the other, I think, key indicator in there was in 2003 45,000 jobs were directly attributable to irrigation. And I just laid that out there to show you, that's only one part of our water use picture in this state. Obviously, irrigation is a very important part, but we also have hydropower; we have recreation interests; we have municipalities, but to give you just a sense of the importance of water use and managing water properly in our state, because a lot is at stake. And so having said that, the reason Farm Bureau is interested in pursuing and looking at a statewide water plan, we want to make sure that we manage this resource wisely, manage it for the benefit of our citizens and to preserve or protect it for future generations. And we think a statewide water planning process can assist in that. And we kind of talked about a statewide water plan, we've always talked about one that was very much driven from the ground up, from the bottom up from the folks out in the river basins, the NRDs, the surface water districts, the other users in those basins looking at their basins trying to figure out what's going on, what their supply is, what their consumptive use is, gathering the data, identifying the challenges that they have to face whether it be compliance with LB962, interstate compacts' compliance, interstate agreements, maybe some other local challenges that they face, identifying those, pulling those all together, identify the various means and alternatives of trying to address those challenges. And I think research and data gathering has to be a critical part of that, because, obviously, we've learned a lot over the last few years about our water resources, but we have a lot to learn yet. And so we have more that we can gather there, but pulling this all together and then presenting that to you as policymakers and identifying those challenges, identifying where maybe some additional funding is needed, where some maybe institutional changes are needed in our law, some of those kind of things, pulling that all together, presenting that to you. And then you and the other policymakers can make decisions based on that on how best to invest our monetary resources, but anything else that we might need to do to address those challenges. So that in a nutshell is kind of how we envision maybe a statewide water planning process. Let me finish by saying I think it would be a very dynamic process. I don't think it's something you do once and then you forget about. It's something that you

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

constantly...you develop it, but you're constantly updating it, and I think it can serve as a measuring stick, if you will, of how we're coming along addressing these challenges that we face, that we can set up a plan, we can start working towards that plan, and then every few years we can check back and see how we're doing, how we're measuring up against that plan, what has changed since the last time we put this plan together and moved forward from there. So with that, I will be quiet and answer any questions you might have. [LR128]

SENATOR LANGEMEIER: Very good. Thank you, Mr. Rempe. Are there any questions for Jay? Senator Carlson, you have a question? [LR128]

SENATOR CARLSON: Yes. Thank you, Senator Langemeier. Jay, on what you handed out here and these pages aren't numbered, so it makes it a little bit...but I guess if you just turn past that first page and this bar graph. [LR128]

JAY REMPE: Um-hum. [LR128]

SENATOR CARLSON: And you look at the economic impact of irrigated versus dryland? [LR128]

JAY REMPE: Right, yeah. [LR128]

SENATOR CARLSON: And one of them says under normal weather conditions, the other one under actual, I don't quite understand what actual means. [LR128]

JAY REMPE: Actual means that the actual conditions that existed in 2003. [LR128]

SENATOR CARLSON: Okay, 2003. [LR128]

JAY REMPE: Normal means they tried to go back and like...as I mentioned earlier, 2003

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

was a drought year, and so they tried to go back and look at typically what a typical year might mean too. [LR128]

SENATOR CARLSON: So if this is pretty close, then the effect of not allowing somebody to irrigate is roughly 50 percent revenue, revenue cut. [LR128]

JAY REMPE: Um-hum. [LR128]

SENATOR CARLSON: With no compensation. And that's a pretty stiff penalty. Do you have reservations about a state water plan that would give that kind of authority at the state level? [LR128]

JAY REMPE: Yeah, in terms of...again in a statewide water plan, we don't tend...from our perspective anyway, to be something that where the state lays out here's what you must do in the Niobrara basin or here is what you must do in the North Platte basin. It's more of a process or procedure where folks in the local area on the ground can determine what's best in their area, and then at the state level we can kind of compile that and get a sense of where we need to invest some resources. So no, we would not be comfortable with the idea of a state mandating that something be done in a particular area or shutting down irrigation or that kind of thing, no. [LR128]

SENATOR CARLSON: Okay. Thank you. [LR128]

SENATOR LANGEMEIER: Senator Fischer. [LR128]

SENATOR FISCHER: Thank you, Mr. Chairman. Mr. Rempe, if there was a change from irrigated farmland to dryland farmland, either in this report or your feelings, how would that affect a local community, and then on a broader basis, how would that affect the state of Nebraska? [LR128]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

JAY REMPE: Well, obviously, in a local community a couple of immediate effects come to mind. One is the...you'd see a slow-down in business just because of the amounts of inputs that go into an irrigated farm as compared to a dryland farm, so there would definitely be some third-party impacts of folks in the local communities and those economies first. Secondly, you'd see a reduction of valuation base, property tax base for the schools, the counties, the NRDs. You would lose that base, so there would be a tax impact there. Then at the statewide level, I think you'd see a reduction in income taxes collected; you would see possibly some sales tax revenue drops as well, so there would be some revenue impacts there too. [LR128]

SENATOR FISCHER: You mentioned valuation decreases. How do you think that would affect local banks, and then taking it to the state level, you mentioned state aid to schools when you have a drop in valuation? Could you explain how you think that would affect state aid to schools statewide? [LR128]

JAY REMPE: Well, obviously, from the local...not being a local banker, but I'd think that would affect their portfolio if you see lands values go down, that they wouldn't like that in terms of how their portfolio stacks up and loans and things. At the statewide level, obviously, there would be impact on state aid to the extent...the way the...as I understand it, state aid formula is set up to the extent that a lower or school district's valuation declines. In theory, the state aid is supposed to step in and take care of that drop in local resources, so you'd see...a good point. But you'd see a double whammy at the state level in terms of lower tax collections coming in, but then perhaps more state aid going out the other side and to make up for that lower valuation base. [LR128]

SENATOR FISCHER: With the revenue situation as it stands currently here in the state, we're below forecast which concerns all of us. I doubt if any more money is going into state aid; possibly there will be cuts. How would that play out, and where do nonequalized districts come in then? [LR128]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

JAY REMPE: Well, obviously, the way things are looking, there's going to have to be some decisions made at the state level in terms of the state's budget. And you senators will be the ones making those decisions, so it would be...there's going to be some tough decisions to be made. I don't know how I'd see it playing out, I guess. Senators in the past have shown a willingness to fund state aid to the extent that they can, and I think that would continue in the future, but there's always that question mark, and then that from a local school district standpoint, if we've got to cut back on state aid, then if you're cutting back on irrigated tax base as well, that's kind of a double whammy. [LR128]

SENATOR FISCHER: But even if we didn't have to cut back in state aid, there would be a shift in the distribution if valuations go down in a certain area of the state, wouldn't there? [LR128]

JAY REMPE: Yeah, yeah, and that's a good point. There would be a shift in distribution, depending on how the school districts were equalized or unequalized, and how they compared to other school districts. Yes, there would be. [LR128]

SENATOR FISCHER: Thank you. [LR128]

JAY REMPE: Um-hum. [LR128]

SENATOR LANGEMEIER: Any other questions? Senator Dubas. [LR128]

SENATOR DUBAS: Thank you, Senator Langemeier. Thank you, Mr. Rempe, for being here this morning. Would you see a statewide water plan helping us be maybe a little more proactive when we get into periods of extended drought? I think we learned a lot from this drought of 2000. Could we take some of that and maybe mitigate some of the impact of an extended drought? [LR128]

JAY REMPE: Oh, definitely. I think if structured right and particularly if we try to use the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

planning process as a way to look at existing supplies and uses and how they match up and how we can move in the future, I think it would identify some things that maybe we've never even thought of that we could do to prepare for dry periods or droughts or those kind of things so, yes, most definitely. [LR128]

SENATOR DUBAS: Thank you. [LR128]

SENATOR LANGEMEIER: Other questions? Senator Haar. [LR128]

SENATOR HAAR: Thank you very much. I have a question too, but he was first, I guess. [LR128]

SENATOR SCHILZ: That's okay. Go ahead. [LR128]

SENATOR LANGEMEIER: We're over there. You can go. [LR128]

SENATOR HAAR: Okay. One of the probably tough things about all of this planning is the concept we're beginning to hear from all over including farm groups is sustainability. Talk about that a little bit in terms of a water plan. [LR128]

JAY REMPE: Well, I think one of the things that as we've gone into this integrated management planning process, we've...there's been a lot of talk about looking at our current water supplies, and there's been some discussion about...and I'll call it a water budget. There's been some talk about how do we set up a water budget for a given basin, and I think we can maybe use some of those concepts in a water planning process to look at available supplies, where the uses are, where the consumptive uses are, and start to think about what is sustainable in the long term in terms of our uses? It kind of gets back to Senator Dubas' question, how do we, you know, take advantage or use these available water resources when we have them in terms of when we have periods of plenty of moisture, but then what can we do to prepare ourselves and be

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

sustainable long term and weather out those dry years. I think experience has shown us, obviously, everything is very cyclical, and there's obviously times when we have plenty, and there's times when we're not, and if we can just figure out a way to even those out and take advantage where we can, and when we have to, cut back a little bit to get through those dry periods. I think a planning process can assist that and trying to aim for that long-term sustainability. [LR128]

SENATOR LANGEMEIER: Senator Schilz. [LR128]

SENATOR SCHILZ: Thank you, Senator Langemeier. Jay, welcome this morning. As we talk about a water plan going forward, obviously, what you see in the political sense and whether anybody likes to admit it or not, water is a lot about politics. How do you maintain the continuity of a plan as you go forward? I mean, because...and you know where I'm going with this. How do you put it together and keep it together, because we've seen in a lot of other situations where planning has tried to have been...has been used, we've seen the problem of Mission Creek or just...or even just falling apart and nothing happening. Do you have any ideas on how you do that? [LR128]

JAY REMPE: Yeah, that's a good question, and I'm not sure (laugh). I think...now let me attempt it a couple of different ways. One, maybe you could build in some mechanisms or somehow to try to make it ongoing. As I mentioned earlier, I envision this as being a dynamic process that it's just not something you do once, that you continue to go forward. And so, I'd have to give it some thought, Senator, but maybe there's some ways you can design it or set up a process where it builds on itself first. Secondly, I would hope perhaps I think there's a lot of interest in trying to move forward in a statewide water planning process, and I think with the built-up interest and once maybe you get started, and there would be, hopefully, enough buy-in to see the end products and the outcomes and, again, to use it as a measuring stick that maybe just momentum itself would just keep the process rolling and keep it going, I would hope. [LR128]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

SENATOR SCHILZ: And as you talk about this "process", and when you talk about the statewide water plan or whatever, you're not talking...talk down...I mean, basically, what you're saying is hey, every region has different needs and different goals and different ideas about what will work and what won't work and you're saying, allow those to happen in a flexible type of planning process that works with local interests. [LR128]

JAY REMPE: Right, yeah, exactly. I don't view it as the state stepping in and saying, here's our plan, you're going to move forward. I view it as a very bottom up approach, each basin identifying their own challenges and how to move forward best in their local areas. [LR128]

SENATOR SCHILZ: And then the last thing and they've struggled with this forever is how do you pay for what needs to happen once you have the plan in place? Because as we well know, when LB962 was put into place, everything got put into place except the funding to do the research to move on to find some of those processes before. [LR128]

JAY REMPE: Yeah. [LR128]

SENATOR SCHILZ: Do you have any ideas on that or have you thought about that any? [LR128]

JAY REMPE: Oh, I've given it some thought. Nothing I want to share publicly or (laughter). I contend part of our problem with the LB962 process is that we weren't able to come to you as senators and give it a clear outline of why...two things...why money was needed, why funding was needed, and what we hope to achieve with that funding, and how that funding would help resolve the problems or the challenges. And I still think that that's an issue, and I...in my own mind, a statewide water planning process can help address that, that we could...that the water community could come to senators and say, okay, here's an outline of the challenges we face. Here's the alternative means to address them; here's where we need the funding. And I think that would offer some...a

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

clear path as policymakers and as controlling the purse strings to be able to maybe make some better decisions in that arena. I would hope. [LR128]

SENATOR SCHILZ: And so, basically, I take it that what you're saying is that since we can't...since it was virtually impossible before to say, hey, this money is going to be used for this or this, we're basically talking about research to find out what works, what doesn't, what the logical case is and the specific area, and how to solve certain problems. Right? [LR128]

JAY REMPE: Right, yeah. That's got to be very much a key part of it, yes. [LR128]

SENATOR SCHILZ: Like eating a water buffalo. One bite at a time. [LR128]

JAY REMPE: Um-hum, yeah (laugh). [LR128]

SENATOR SCHILZ: Thank you. [LR128]

SENATOR LANGEMEIER: Senator Fischer. [LR128]

SENATOR FISCHER: Thank you, Chairman Langemeier. Mr. Rempe, you've been involved in water issues for many years, and you're a member of the previous water policy task force. Correct? [LR128]

JAY REMPE: Yes. [LR128]

SENATOR FISCHER: With your experience on that task force and just your experience with water issues as a whole from a legal side, you're also an attorney, correct? [LR128]

JAY REMPE: No, I'm not an attorney. [LR128]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

SENATOR FISCHER: Oh, gee, that's...okay. [LR128]

JAY REMPE: No. I'm married to one. That's as close as I get so (laughter). [LR128]

SENATOR FISCHER: And here I've been relying on you for (inaudible) (laughter).
[LR128]

JAY REMPE: Yeah, my secret's out (laugh). [LR128]

SENATOR FISCHER: Poof. So, Senator Langemeier was saying the purpose of this study was to define what a statewide water plan should be. And what I'm hearing from you, you're saying it needs to be a grassroots movement on most to recognize the differences and the regions, right, and the different basins? [LR128]

JAY REMPE: Um-hum. [LR128]

SENATOR FISCHER: Do you think the previous water policy task force had that view?
[LR128]

JAY REMPE: Yeah, I think so. In fact, they spent a lot of time two or three years ago talking about how you might move forward in a planning process, and the process that they came up with, that we came up with, was very much a bottom-up approach. And part of the thinking in terms of making it statewide is just to make sure that each basin went about it similarly, so you didn't have the Republican Basin coming forward with some ideas and the lower Platte, but they came at it differently. And so you couldn't really compare it to see exactly what the difference...I think part of the thinking and the water policy task force will set out these broad parameters and then let it come up from the bottom up, yes. [LR128]

SENATOR FISCHER: How do you see a statewide water plan functioning now? The

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

Legislature do it, the Legislature form a group like the water policy task force to do it if you form a group, how big should it be? I don't think 40-some members is always good, but there's a lot of interests out there. How do you see that happening? What would be your recommendation to us? [LR128]

SENATOR LANGEMEIER: I guess from my...and I haven't given this a whole lot of thought, but from my standpoint I think it would be good for the Legislature as a body, and if it's interested in a statewide water planning process to lay out what kind of the broad parameters or what it hopes to achieve. And I think that does a couple of things. One, it involves the Legislature or it says...it sends a message that yes, we're interested in this and moving forward, and we want to see what comes out of it, one. And then I think secondly, when it's done then, obviously, the Legislature has some political stake in it, so I think that's good. I really, honestly, I'd have to give that some thought; how you move forward beyond that, I'm not sure. But I'll give it some thought, and we can visit a little more about that. [LR128]

SENATOR FISCHER: Okay. Thank you. [LR128]

JAY REMPE: Yeah. [LR128]

SENATOR LANGEMEIER: Senator Carlson. [LR128]

SENATOR CARLSON: Thank you, Senator Langemeier. I want to come back to what Senator Fischer said in her first questions with you, and you talked about the double wham on taxes. And I think it's good to reemphasize that again, because with high valuations because of irrigated property, irrigated land, most rural school districts receive either none or very little state aid which means that the bulk of the educational expenses for the students in their districts are paid for by local property tax. Now, if you have an asset rich district, and it's irrigated farmland, then you also have...on a good year, you had a lot of income. And therefore, a lot of income tax, and you also have a lot

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

of purchases so you had a lot of sales tax. The state is the beneficiary of those income taxes and those sales taxes if the property tax is paying for most of the education. So I'm just restating, but I think it's so important that we understand this, because then if at the state level a decision is made that a lot of this land becomes dryland in a water short year, evaluation goes down, so you already said it. State aid is going to go up. If we don't have the water, income goes down. Sales, big sales and little sales go down, so there's a loss of income tax and there's a loss of sales tax. And it's a severe double wham on the state. We've heard statements this last week of how rural Nebraska is a drag on the whole state, and that kind of decision that takes water away from people really accentuates that possibility. Rural Nebraska is pretty important to the state of Nebraska. But part of the material we have here from a citizen who says, my feeling is the state needs to be the one to regulate and determine the amount of use of water in each river basin. Do you agree with that? [LR128]

JAY REMPE: No, I don't. No. I...there is a role for the state, but obviously, I think and our members strongly believe that the best decisions are ones that are made locally and because of just what you pointed out, the economic consequences of those decisions and the folks closest to it are the best ones to make the decision, so no, I disagree with that statement. [LR128]

SENATOR CARLSON: Thank you. [LR128]

SENATOR LANGEMEIER: Any questions? Seeing none, thank you very much, Jay. [LR128]

JAY REMPE: Um-hum. [LR128]

SENATOR LANGEMEIER: The next one is ready. Come on up. If I can have you put your sheet in the box, we are ready when you are. [LR128]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

JOHN RAVENSCROFT: Good morning. My name is John Ravenscroft, R-a-v-e-n-s-c-r-o-f-t. You feel pretty bold when you first come up here, but after you sit there awhile, you get kind of nervous but (laughter). I guess my main topic is...or main thrust, and it's already been touched on, is I don't think you can write a state water policy to cover the same or one size fits all. But I know government does that a lot, and that you need to adapt the policy so it's flexible enough to fit different regions, and the amount of water they have in that region--ground water and surface water to meet the needs of the producers in that area. And I think that agriculture is already struggling the way it is that increased inputs, and we don't need to handicap agriculture farther by a stringent water policy that mandates and tells people how to use their water, and if they're going to use water they have to do certain things different ways. So I know there are a lot of things that agriculture can do to make water go farther in the way they treat the ground. Any time you take cover off the ground, the water is going to run off; if you can leave cover on it has a tendency to hold the water and so that's so. I guess that's about it. [LR128]

SENATOR LANGEMEIER: Are there any questions? Seeing none, they're going to let you off the hook too so thank you very much for your testimony. I appreciate it very much. [LR128]

JOHN RAVENSCROFT: All right, thank you. Yeah. [LR128]

SENATOR LANGEMEIER: Further testimony? [LR128]

BRIAN BARELS: (Exhibit 2) Good morning, Senator Langemeier, members of the committee and guests. We're glad to have the opportunity to get together and talk about planning for water. I think it's crucial as we move forward to find ways to do the planning processes that are necessary to make water available. I'm sorry. [LR128]

SENATOR LANGEMEIER: Got to do your name. [LR128]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

BRIAN BARELS: Brian Barels. That's spelled B-r-i-a-n B-a-r-e-l-s. Thank you. And I'm the water resources manager with Nebraska Public Power District. As we look forward to our future needs and the goal of reaching sustainable levels of uses in the state of Nebraska, I think it's important to look and have a planning process in place, and it needs to be an ever evolving process. Some of the earlier questions have to do with the potential impacts of retiring irrigated acres, and that is a significant concern, and that is an alternative that isn't in the best interest of local interests or the state. Had we had extensive water planning processes in place, we may have the offsets necessary to maintain irrigated agriculture in Nebraska at the level we have. Now don't get me wrong. In some basins we may have overdeveloped, but if we had a planning process, as Mr. Rempe indicated, that looked at periods of excesses and different management techniques that could be implemented to say, store additional water in our ground water aquifers, pump it out in times of shortage, and different alternatives like that, and again, there's not one size fits all in the state of Nebraska, so the planning process needs to reflect those regional issues, the river basin issues and find a way to bring those up into a statewide planning process. One of the things that has stimulated this...we've had water planning over the years with surface water beginning in the early 1900s and the diversion of surface water for irrigated land. We then evolved into the development of our ground...oh excuse me. Then in the thirties when we had shortages we did planning; we installed reservoirs in the system in the thirties to the fifties. We also had the development of ground water, and that opportunity which helped get us past the shortages. As Senator Langemeier mentioned, we had some planning in the seventies on how do we go forward from here now with what we know? And I think it's for that reason that we need to do that again at this point in time. LB962, I think as being a member of the soon-to-end water policy task force, its goal was to stimulate water planning. Unfortunately, it's become a regulatory mechanism with moratoriums and the fear that we are not going to have development. If that would have been the desired outcome of LB962, I don't think the water policy task force would have passed it. I never envision the end of development for water resources in Nebraska. I figured we had to

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Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

get smarter, and we had to figure out how to manage them, and we just need to do that step. And that's exactly, I think, why we're here talking about a statewide water planning process today. A state plan, as I said, is a process that provides water management professionals, elected officials, and the public with the information needed to manage limited water resources and limited money resources. It will provide the means for planning, conservation development, management, protection, and the use of the state's water resources. I believe it's very important that the Legislature identify the purposes and expectations for the state water plan and provide the necessary funding to develop that plan. We need to get this plan done so that we can avoid the economic impacts of having to take regulatory measures to solve our water resource problems. There's a number of things that can be included in the purposes of the plan. I'm going to touch on a few of them. We need to manage our water resources in a sustainable manner for current and future uses. It needs to recommend the strategic goals and objectives in the near and long-term actions that would conserve, manage, and develop, and sustain Nebraska's water resources. We need to identify those problems that must be addressed along with each river basin's priority issues. We need to identify the future water and long-term needs for different uses within the state. We need to provide for maintenance of water quality of those water resources while we do this planning. We need to identify management strategies to provide additional water resources and how we're going to manage in times of drought. We need to provide guidance from a local level and from an NRD level and from the state agencies as well. The proposed solutions may have some statewide implications but mostly they would be river basin and regional in nature. And then what the main goal of the statewide water plan is, is what are the objectives to achieve those goals. Those need to be developed through the planning process. And the plan needs to include the assessments of how much water we have, what are our water needs, what are our future water needs, and what are the steps we can do to get from periods of high flows or a wet year like some parts of the state have encountered this year to set that water aside for future dry year periods. I provided a number of attachments to my handout just for information that the committee may look at and contemplate and, hopefully, find some benefit from. The first

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

attachment provides information on the steps necessary to achieve the plan. And as Senator Langemeier said, there's a number of plans out there. And these are just a few of the ideas and in reading a number of them that, not intended to be the plan, just ideas for the committee's consideration. Attachment B is the type of objectives that are in Kansas' most recent plan. They're 2010 and 2015 objectives. They're here for information only. The type of objectives that can get developed from a statewide basis and how that might be addressed. And again, it's only for thought stimulation only. Attachment C then includes some examples of management strategies that can be found in various state water plans. There's a lot of different management strategies, whether they be land use, cropping, surface water reservoirs, water conservation. There's a lot of different management strategies and until you understand your water supplies and your water uses, you don't know which one of those strategies might work best in what river basin in the state. I think with that, I'd just end up by saying that a question was asked on how do we develop this and how do we create the enthusiasm to keep it going. I have participated in some discussions with some NRD managers and other surface water irrigation managers, and I think we need to have a focus for this to occur and a place for it to live within the state. How does it get developed? Who is responsible for making it? Who is responsible for providing the annual plans, the updates? Who is responsible for the implementation? All good questions. I might suggest and I think at a later hearing on LR128, Ron Bishop of the Central Platte NRD may provide some additional insights on this. And I'll just mention, I think we might want to consider a state water planning agency. I think we need to provide this focus. Water is our most important natural resource and we need to provide the focus to make sure that we have that resource in a sustainable manner for future Nebraskans. So, I'd be glad to answer any questions you may have. [LR128]

SENATOR LANGEMEIER: Very good. Are there questions? Senator Hansen. We'll start on that end. [LR128]

SENATOR HANSEN: Thank you, Senator Langemeier. Brian, it's good to have you here

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

this morning. One topic you didn't mention and I didn't see in your attachments either is litigation with other states. How do we continue making water plan for the state of Nebraska when we continue being in litigation with other states over water quantity?
[LR128]

BRIAN BARELS: I see the planning effort as a way to identify different ways to conserve and provide water. When you're in litigation it makes it much more difficult. But the planning studies, very honestly, they're not a lot different than what Missouri does or Kansas does or Wyoming does. They all do them and Wyoming has done water planning in the middle of the North Platte decree, a litigation with Nebraska. So it's a matter of looking for the water supplies and how can we better manage those. And those can be separate studies and, of course, you have to coordinate with the litigation efforts of the state and all those necessary things. But look for ways to comply with the decree, or the compact, for example, with Kansas. Has to be something Kansas would be very pleased with. [LR128]

SENATOR HANSEN: Thank you. [LR128]

SENATOR LANGEMEIER: Senator Schilz. [LR128]

SENATOR SCHILZ: Thank you, Senator Langemeier. Brian, good morning. Welcome to beautiful sunny Valentine. [LR128]

BRIAN BARELS: Water's good. [LR128]

SENATOR SCHILZ: So appropos for a water meeting, huh? Hey, as you began your statements this morning, and I think this is one of the big reasons why the Nebraska Water Policy Task Force had such a tough time in getting that planning process jump started. Can you tell me, and tell me if you think this is true or not, the definition of sustainability has always been a stickler and how do you get to that? Would you...I

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Rough Draft

Natural Resources Committee
October 05, 2009

mean, isn't that what we're talking about here and how you define that first before you go forward? [LR128]

BRIAN BARELS: And it was a stickler for the Water Policy Task Force. There's no ifs, ands, or buts about it. But it's that water supply or the management methods you can implement that will sustain those uses that are necessary and benefit the people. [LR128]

SENATOR SCHILZ: So it takes into consideration, economics, and recreation, and all that to try to... [LR128]

BRIAN BARELS: It needs to. Whenever there is ever a trade-off in water, there's definitely economics involved in it. But one of the things that we need to understand is, water can be used and reused. If you look at...and you'll have the opportunity as I understand it to visit Lake McConaughy a little bit and if you can understand, that water is used for recreation, it's used for instream flows, it's used for ground water recharge. It comes back to the river. It's used for irrigation. It produces hydropower. It cools the largest power plant in the state and they're ways that we can manage that water so that it can be reused and we don't get those shortages and have that situation where someone doesn't have water to use. Every part of the state is different so you have to develop a different management plan for different parts of the state. Some have a nice Ogallala aquifer, a nice reservoir under the ground that we can use to store water in and pump water out of it in times of shortages. Some parts of the state don't have that opportunity. They need to look for other management alternatives. [LR128]

SENATOR LANGEMEIER: Thank you. Other questions? Senator Carlson, nope? We're going to go clear out to the other end and work our way back. Senator Sullivan. [LR128]

SENATOR SULLIVAN: Thank you, Senator Langemeier. And thank you, Brian, for your comments. I suspect that my question is probably something that needs to be asked of

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Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

every person testifying, because I think there's general agreement that we need a plan, but apparently there's going to be a fine line between having a plan that gets put up on a shelf and is never activated or not used effectively to the point...the other extreme of having mandates. I wonder if you have any thoughts on how we can develop a functional plan. [LR128]

BRIAN BARELS: I think that the mandates may be identified in the purposes, if there is legislation providing direction. And the mandate becomes to identify the goals that have to be achieved. And then that allows the river basins and the local water users to figure out the best way to achieve sustainability for their area, if that's a goal. And so then what I think we need to have is, we need to be able to make sure we're all paddling in the same direction. And I think one of the benefits of the state water plan is just what Mr. Rempe said, is that we're going to find out what the needs across the state are. It becomes more difficult in trying to identify the priorities and how our monetary resources can go to solve those problems. But that's one of the benefits of a potential plan is, what are the most cost effective measures that can be implemented and get the biggest bang for the buck, one of the things that needs to be looked at. [LR128]

SENATOR SULLIVAN: Thank you. [LR128]

SENATOR LANGEMEIER: Senator Dubas. [LR128]

SENATOR DUBAS: Thank you, Senator Langemeier. Thank you, Mr. Barels for being here this morning. Still being relative new to this whole process and I know there's been a lot of task forces, etcetera, dealing with water in the past, but it seems to me like we are very focused on rural use of water, agricultural use of water. Do you feel that there's been enough of a balance? Are we bringing the urban use, the industrial use, are we bringing that into the discussion also? [LR128]

BRIAN BARELS: Well, I didn't get into the details. I think you'll find that in my testimony.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

We need to bring all those together and find out. I think, again, if we look at the right projects and the right uses, we can take all that into consideration. And, of course, representing NPPD, I think, water for future generations in the state is an important item as well that we need to take a look at. And this is a learning process. I've learned a lot, as I'm sure some of you have as you've dug in this planning. And many states have tried this in many different ways. Of interest, I noted in the state of Wyoming they did a trial basin to start their process. They went out and did a learning session. And this is a big effort. To get the data you need, to find out where you don't have data and maybe need more data, is going to take some time. And I think an interesting concept that Wyoming used was, they did their state study a basin at a time. You know, instead of massive resources all being thrown across the whole state, how can we implement this in a sequential manner and ultimately bring it all together into more of a statewide planning process. So there's a lot of alternatives out there and I think we're all going to learn together as we move forward and find out the right path to follow here. But I do believe we need this planning process to get through these drought periods. And I think we will be surprised at opportunities we find so that maybe we can meet some of the goals in some of these river basins without having to retire irrigated acres. [LR128]

SENATOR DUBAS: That gives me a nice little segue into my next question about educating people. You talk to people in urban areas who say farmers are out there just watering things, you know, just throwing caution to the wind. And then my pet peeve is to drive through urban areas when it's raining and their lawn sprinklers are on. So, you know, how...I think that's an important component is really educating all citizens of the state on water use. [LR128]

BRIAN BARELS: Absolutely. And I think I do have that. Education is critical. It needs to be a significant portion of this whole thing. I had a chance this summer to take a tour in the state of California and they have very, very large quantities of water and, of course, they have very, very large quantities of uses. And I found it interesting that we had an opportunity to have a visit one night while we were there from an organization very

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

similar to our Groundwater Foundation in the state of Nebraska to educate people about ground water. That organization in California was there specifically as a nonprofit organization to teach people about surface water in the state of California. And they have lots of surface water in the state of California, so education has to be a very critical component. We all can learn and understand that water use and reuse can also provide the necessary water for the city of Lincoln and Omaha as well. [LR128]

SENATOR DUBAS: Thank you. [LR128]

SENATOR LANGEMEIER: Senator Carlson [LR128]

SENATOR CARLSON: Senator Langemeier. Brian, I've got two questions. In your report you say that it's important for the Legislature to provide funding for a statewide water plan. Specify the source of those funds and actual purpose of those funds. [LR128]

BRIAN BARELS: The...start with the easy one, the purpose. The purpose of those funds is to allow the necessary activities to develop the plan. Because the plan is, what are our water supplies? What's the water supply in this basin, and how is it variable? And what are our water uses and what's the consumption associated with that uses? And then to look at what management activities we can utilize. Whether it's another surface water reservoir that can find excesses two out of ten years. Whether it's recharged to an aquifer so that it can be pumped out at a later time, at sometime referred to as conjunctive management. But there also needs to be outreach meetings. I mean these need...the public needs to have in put into this process so that you bottom up type of a thing. So the goals, the purposes can be set at this higher level but the objectives have to be developed through the planning process. That's going to take meetings. It's going to take time. It's going to take some consensus based activities from some of the basins. Coordination between state agencies, Natural Resource Districts and the public in this process will be critical. The funding and where the funding comes from, I believe,

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

as pointed out, that the impacts to the local and state level of not doing this planning, can be substantially economical and have a substantial impact. I think we need to find the funding for this kind of planning from a state perspective so that we can avoid these economic disasters in not having the water, not meeting a compact, whatever the future demands might be of the state. Without it, we could be in real trouble. [LR128]

SENATOR CARLSON: So in, you would say these state funds would be used for education and planning, not for implementing projects in specific basins, that would solve the problem. [LR128]

BRIAN BARELS: Well, the plan should recommend the projects. How they get funded then can be part of the development of the planning process. Again, one of the concepts that was being looked at in the Water Policy Task Force, as Mr. Rempe said, is when you know what these projects are and they come up to the top, you can identify those priorities and make sure that what state funds are going to water development and enhancement get to those most critical projects. So it helps you focus where your limited monetary resources are spent. Can there be cost-sharing? Yes, when I look at the water development agency in the state of Wyoming, all the projects that go forward have local sponsors as well. They either have an irrigation district, a community. In our case, it may be a natural resource district that are also sponsors, and I believe with that, comes cost-sharing. The state of Wyoming doesn't pay for 100 percent of a project when they do a water development project. There's some process that's developed in each state for cost-sharing as you go forward. [LR128]

SENATOR CARLSON: Okay. So try to answer this maybe yes or no. You're saying that it's okay to use state funds for planning, for education, and for implementing and carrying out some projects to a specific area and you're not against cost-sharing. Cost-sharing shouldn't be 100 percent local and zero state. [LR128]

BRIAN BARELS: Correct. [LR128]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

SENATOR CARLSON: Okay. Thank you. Now, the other question was this, and I'm not getting at anything here. I'm just interested. How many wells does NPPD have? Who regulates those wells, and what's the purpose of them? [LR128]

BRIAN BARELS: I don't know the exact number of wells that NPPD has but I would guess that it's probably in the neighborhood of 50 to 100. There's many different uses for those wells. At many of our facilities, power generating facilities, they're water supply wells. They're drinking water supplies. In some cases they are process water. And in a case of Gerald Gentleman Station and Sutherland Reservoir, we also have wells that are there to provide the quantity, supplement the quantity of water needed for running that power plant during a drought. They also help cool the water to meet our, our discharge water to meet our state NPDES temperature discharge limits. So we have wells with a multitude of purposes. In all cases they are regulated either by the state. If it's a public drinking water supply, it comes through the Department of Health and the Department of Natural Resources. And in most cases, those wells are regulated by the local natural resource districts. [LR128]

SENATOR CARLSON: Okay. Thank you. [LR128]

SENATOR LANGEMEIER: Seeing no other questions, thank you very much for your testimony. [LR128]

BRIAN BARELS: Thank you. [LR128]

SENATOR LANGEMEIER: Further testimony. Mr. Welke. [LR128]

REED WELKE: (Exhibit 3) Good morning. I have a few handouts for you. My name is Reed Welke, that's R-e-e-d W-e-l-k-e. I am the water programs coordinator for the Middle Niobrara NRD. I'd like to take this opportunity to give you some information of

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

our localized water system drainage basin that I think is important to consider when discussing a statewide water plan. Most of you have seen this information, so I'll try to go...be relatively brief in my description. Some of you may have even seen it two or three times, I think. But I will go through it, nonetheless. What I've done is just try to highlight sort of a unique situation of our surface water system in the Middle Niobrara and Lower Niobrara Natural Resources Districts. I've taken USGS gauging station data from four different gauging stations. One is located near Sparks, Nebraska, on the Niobrara River at Berry Bridge. One is located on Long Pike Creek near Riverview which is a tributary of the Niobrara River in Brown County. One is located near Spencer at the hydropower dam, Spencer, Nebraska, and one is located near Verdel, downstream of the Spencer hydropower dam. And what I wanted to highlight really is the first two gauging stations. I've taken data from the Sparks gauging station which, if you're familiar with this area, it is downstream of where the Snake River enters the Niobrara River and the Snake River is where Merritt Reservoir is located. Merritt Reservoir is the Ainsworth Irrigation Project, Ainsworth Irrigation District Project, which irrigates roughly 30,000 acres in Brown County, Nebraska. There's a period of record from 1946 to 2008 on that gauging station. I've broken it down so the first figure you see is 1946-2008; the second figure is 1946-1963; and the third figure is 1964-2008; 1964-2008 is the entire period of record. If you look at that graph you'll notice a declining trend in flows. And then I've broken it down from 1946-1963. That is the period prior to Merritt Reservoir being built. Merritt Reservoir was put in 1964. So I went 1946-1963, so you have a clear period of record prior to that project, and in 1964-2008. And what I just want to highlight there is that if you look at 1946 to 1963 information, you see it's a very stable flows and a slightly increasing trend. And if you look at 1964 to 2008, you also see increasing flows or slightly increasing trend and very stable flows. A little more variation throughout that time but it's also a longer period of record so that's, as you see, more droughts and what years you would be inclined to see larger variation. So when you take that into account, the period of record prior to Merritt Reservoir and the period of record post-Merritt Reservoir, you see that if you look at the cubic feet per second on the left hand side of those graphs, you see that it has shifted down from

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

where it used to be always above 800 cubic feet per second average annual flows. It is now somewhere between 600 and 800, generally around 700 cubic feet per second average annual flows. That's a reduction in flows of around 100 cubic feet per second on average. Now, if you turn the page to Long Pine Creek near Riverview, that is a gauging station that is downstream of where most of that irrigation water...irrigation district water goes. So it irrigates acres upstream of this gauging station. There are several different drainages but they all lead to this gauging station. And what you see for the period of record there, the figure four is 1949 to 2008, you see a very strong increasing trend in flows. It started out around 100 cubic feet per second and now it averages in between 150 to 250, or 200 cubic feet per second. If you take the period of record prior to Merritt Reservoir, 1949 to 1963, you see that it's fairly steady, in between 100 and 150 cubic feet per second. And then if you look at the period of record from 1964 to 2008, you see that after a few years there's a significant trend upward. And now for the last ten years, the flows have been between 150-200 cubic feet per second. And I've done a little further analysis and it's roughly on average, 70 cubic feet per second higher flows at that gauging station than it was prior to Merritt Reservoir being built. So you have a system where we see the 100 cubic feet per second decrease in average annual flows at Niobrara River gauging station near Sparks, and a 70 cubic feet per second increase in average annual flows at Long Pike gauging station near Riverview, in Brown County. Now this...I've talked with several different individuals about the consumptive use of that 30,000 acres that ends with irrigation...roughly 30,000 acres that ends with irrigation district services, and that is roughly what we'd expect the consumptive use of that if it were in corn to be, would be 30 cubic feet per second. So what I essentially wanted to highlight is that although if you look at the entire period of record at Berry Bridge gauging station, you see what appears to be a declining trend. If you break it down pre- and post-Merritt, you see that the graph, or the flows have shifts down around 100 cubic feet per second, but the stability of the system is still there. There is nothing to indicate that the stability is going away. So you've created the possibility for lower lows, and you've created the possibility for the highs or the reality of the highs would more likely be lower. So you've just shifted everything down a little bit,

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

but the stability is there. And then in the Long Pine drainage basin you've increased flows and maybe those increases will continue on into the future. Now in the other gauging stations where that system is, it's far enough downstream that this interaction is more or less muted, in a sense. You look at Spencer, figure 7, Spencer gauging station, you see a gradual increase in flows in the trend regardless of pre-Merritt, post-Merritt. It's just relatively stable river system and if you look at figure ten, the Niobrara River near Verdel, I've just made one graph of that, not preimposed. You see relatively stable, lot of variation, but essential stable flow. And I also have handed out some of our ground water information. I've attached this in the form of graphs. If you want to look at those graphs, I have information from water level changes from 2008 to 2009 in the spring and information that we have from the wells measured in 1970-2009. And it shows areas of where we have declines or increases in ground water level. And I've also attached on that long-term graph, or a long-term map, where our irrigated acres are located throughout the basin. So you can kind of draw any correlation, perhaps, there. And I have also included a map of the UNL Conservation Survey Division's long-term ground water trends. And what I really just wanted to do is give you this information because I feel it's important to take into account the uniqueness of systems such as ours when considering such a large scale project such a statewide water management plan. It's...I know the system is unique and I know it's not...it's unique in itself but it's not unique in the fact it's unique. I know that there are many other areas throughout the state that probably have similar situations or situations that need further investigation to, perhaps, explain anomalies in water quantity. And I just wanted to bring this to your attention so that you're aware of the situation and the relative stability of our area when you go forward and try to make decisions on water policy. And with that, I'll take any questions. [LR128]

SENATOR LANGEMEIER: Are there any questions? Senator Fischer. [LR128]

SENATOR FISCHER: Thank you, Chairman Langemeier. Mr. Welke, when you were pointing out the differences through the years and especially the pre-Merritt and the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

post-Merritt on the different gauging stations, you had the station at Long Pine. [LR128]

REED WELKE: Uh-huh. [LR128]

SENATOR FISCHER: When we see the increase there, is that due to recharge?
[LR128]

REED WELKE: I...it's due to both recharge and runoff, increased runoff. [LR128]

SENATOR FISCHER: Why is there increased runoff? [LR128]

REED WELKE: The irrigation district project. There's a lot of...essentially wastewater.
[LR128]

SENATOR FISCHER: Oh, okay, from the fields. [LR128]

REED WELKE: And there are wasteways along the irrigation canal that when flows are high enough in the canal they will dump water directly into the streams. [LR128]

SENATOR FISCHER: Does the current Nebraska law dealing with water, LB962, take into account recharge? [LR128]

REED WELKE: Well, the law itself... [LR128]

SENATOR FISCHER: I don't mean to put you on the spot. I'm sorry. [LR128]

REED WELKE: Well, the law itself, I can't say that it necessarily takes that into...incorporates that. I know DNR uses a variation, different models throughout the state when they make their determinations as to whether a basin is fully appropriated or not fully appropriated. The particular model that was used for our area is an analytical

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Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

model and does not take recharge into account. In a model like that, recharge is essentially what is flowing in the stream. That is your recharge. If the ground water system is stable and you're not seeing decreases or increases, your recharge is your stream flow. [LR128]

SENATOR FISCHER: I take it your point on providing us with this information would be that, as you said, each basin needs to be looked at specifically individually. [LR128]

REED WELKE: Individually. And this is a very localized system and it's fairly unique and I know there are irrigation systems throughout the state and no doubt they create situations, maybe not exactly like this, but similar situations that need to be invested. I personally haven't done that, but I'm sure there are individuals who have. But those types of things need to be taken into account when you're trying to deal with a water budget or understand exactly what you have as far as a resource and quantity because if you did not look at...you did not examine the situation, or our system pre- and post-Merritt, it would be very easy to think the Niobrara River's decreasing flows and Long Pine's increasing, what's going on here. If you didn't look at the situation in that time scale you could easily say, if you just looked at the Niobrara, well, we're in trouble, things are going bad, what's going on, why is this happening, the flows are going down, we need to stop this. And then if you looked at Long Pine Creek, you'd say, okay, we're having erosion issues, ground water is rising, how are we going to solve this issue, how are we going to mitigate this. So that kind of information needs to be taken into account when you start a planning process. [LR128]

SENATOR FISCHER: Okay. Thank you. [LR128]

SENATOR LANGEMEIER: Senator Schilz. [LR128]

SENATOR SCHILZ: Thank you, Senator Langemeier. Mr. Welke, thank you for coming in today. And as we look at these, and I have to apologize for not understanding exactly

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Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

where each one of these are... [LR128]

REED WELKE: That's fine. [LR128]

SENATOR SCHILZ: ...but basically what I think that you're saying is above Merritt you seem to be losing some stream flow unnecessarily and then...go ahead. [LR128]

REED WELKE: You would be below Merritt Reservoir on the Niobrara River, so the Merritt Reservoir diverts this water around that portion of the stream. [LR128]

SENATOR SCHILZ: Gotcha. [LR128]

REED WELKE: By-passes that stream gauge and then dumps it in the Long Pine drainage. [LR128]

SENATOR SCHILZ: Right. Gotcha. [LR128]

REED WELKE: So during the summer...and particularly strong during the summer months where you see these declines. And I was talking with Rod Imm the manager of Ainsworth Irrigation District yesterday, and he says that during the summer months when they are releasing flows for the irrigation season, they release 40 CFS in to Snake River continuously. Once the reservoir is full they by-pass what the inflows are, which is roughly 230 CFS. So that's an increase of 190 CFS once that reservoir is full. When they're diverting water, they take it back to the minimum of 40 CFS. And that explains that decrease in trend. Where the stability...and that's why you break that it into pre- and post-Merritt, you still see the stability. You just see that it shifted down on average. [LR128]

SENATOR SCHILZ: Right. And that stability, as you're saying over that whole stretch is actually increasing a bit, correct? Possibly. [LR128]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

REED WELKE: You can say that. It's a weak correlation so that's why I say stability as opposed to increasing because it's a little more foolhardy to just hang your hat on, yeah, it's increasing. [LR128]

SENATOR SCHILZ: Right. [LR128]

REED WELKE: Because it's a pretty weak trend, but... [LR128]

SENATOR SCHILZ: So, but that's what you're talking about when you talk about investigation, is finding out... [LR128]

REED WELKE: Yes, yes. [LR128]

SENATOR SCHILZ: ...what is the real long-term trend in (inaudible) [LR128]

REED WELKE: But an increasing trend makes you feel a lot more comfortable than if it were slightly decreasing. [LR128]

SENATOR SCHILZ: Sure. [LR128]

REED WELKE: Then you would say, well, okay, it's still potentially stable, but... [LR128]

SENATOR SCHILZ: Right. So now let me ask you this. You say that you want to make sure that that's taken into consideration and you're not put into a one-size fits all sort of plan, correct? [LR128]

REED WELKE: Essentially, yes. Yes. [LR128]

SENATOR SCHILZ: Do you see that if it is actually increasing in flows, do you see that

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Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

as an opportunity? [LR128]

REED WELKE: It's potentially an opportunity, yes. I think there are certainly more studies we could do and increased analysis and just monitoring that could be done to gain certainty in decision making. But it certainly does create an opportunity, I think. [LR128]

SENATOR SCHILZ: Sure. And if you could find that, and if it is increasing or even staying static, I mean, it would seem to me that there may be some opportunities going forward to provide some of those, some of that certainty through a further management projects, correct? [LR128]

REED WELKE: Yes, yes, I think so. [LR128]

SENATOR SCHILZ: Maybe not just only for your district but maybe downstream or other areas in the state where you could mitigate and release water for other uses possibly. [LR128]

REED WELKE: Yeah. [LR128]

SENATOR SCHILZ: As long as you got paid, right? [LR128]

REED WELKE: Oh, yeah. (Laugh) [LR128]

SENATOR SCHILZ: You're not opposed to that? [LR128]

REED WELKE: It's a possibility. I'm personally not necessarily a proponent of shipping water all over the state but... [LR128]

SENATOR SCHILZ: But let's ask it this way. If you didn't have to ship water all over the

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Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

state and you could mitigate one use with another use of being put in to go downstream, that's kind of what I'm thinking. I don't...let's let the rivers and everything do the shipping. We don't want to do that. [LR128]

REED WELKE: Yeah, yeah, absolutely. [LR128]

SENATOR SCHILZ: Thank you, sir. [LR128]

SENATOR LANGEMEIER: Senator Haar. [LR128]

SENATOR HAAR: Thank you, Mr. Welke, you're a young man and I admire your reliance on data. I think that's going to be really important to try to answer a lot of these questions with data that can be collected and explain things. And I'm old enough now that I don't worry nearly as much about my future as I do about your future and the future of my grandchildren. What are your concerns about water in Nebraska during your lifetime and career? [LR128]

REED WELKE: Well, honestly, one of my chief concerns is that long-term, is that money and interest will be strong enough across state lines to tap the great resource that we have through large scale projects. That's probably one of my largest concerns. Within the state I would say just doing everything we can to maintain the quality and quantity that we currently have available. We can't...it's very tough to go back in the past where if there is an area where you have decreased ground water levels or surface water flows, it's very difficult, as we've seen in certain parts of the state, to rewind the clock and try to get back to a previous state. So the concern is, for me, is to maintain as much as possible the current state of things, while also allowing the potential for future development in the economic sector and the agricultural sector potentially. But striving to find a balance that doesn't necessarily cut one off from the other. To be truly fully appropriated, I guess, would be what I'm looking for. [LR128]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

SENATOR HAAR: Well, thank you. I appreciate your involvement in this issue. Thanks so much. [LR128]

REED WELKE: But truly fully appropriated. [LR128]

SENATOR HAAR: Yes. (Laughter) [LR128]

SENATOR LANGEMEIER: Very good. Thank you very much for your testimony. [LR128]

REED WELKE: Thank you. [LR128]

SENATOR LANGEMEIER: Senator Lamb, welcome back. [LR128]

HOWARD LAMB: Thank you. Howard Lamb, L-a-m-b, like sheep. I'd like to...I'm sure Deb has already welcomed all of you here but let me add my welcome and I'm impressed. I've seen these outstate hearings where three senators and eight people show up. You should be commended for the interest generated. And also especially that we've got our urban senators here. It's really tough to get urban senators out this far and we appreciate that very much. I would suggest that people speak up because if you're deaf like I am and you're sitting in the back, you can't hear you, you can't hear. (Laughter) Or at least I couldn't hear very much. My remarks are very brief and very general and I don't take tough questions. (Laughter) Just soft questions. But my...I sat on this committee for a number of years and my attitude at that time and still is that we have this great natural resource in Nebraska called water and we need to use it or lose it. You know, I like to compare it with coal. And coal is a great natural resource that Wyoming has. They have the coal, we have the water. But you know, every kind of coal that goes out of Wyoming has generated jobs, has contributed to the economic development of the state, and besides that, they get a severance tax when it goes across the line. But now in Nebraska, now the numbers I remember from way back, are

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

that there's a million and a half acre feet flow into the state and about six and a half million acre feet to flow out. I'm sure those numbers are not correct at this point because we've had a drought. There's probably less flowing in and less flowing out. But anyway, those numbers mean something to me in that while Wyoming is getting paid for that natural resource, this...much of the natural resource that we have, water, is just flowing out of the state and going down to the Gulf of Mexico. So, you know, the intricacies of how you develop this resource is up to you and not to me and I'm glad that's the way it is. But, in general, I'll just repeat that we need to use that. Now we need some for fish, some for recreation, but I think there's a tremendous opportunity for industry, for agriculture, to use some of this water and frankly, I hesitate, I have reservations about having too much involvement by state and federal agencies in regard to our water. So, again, thank you very much. Any soft questions, I'd respond. (Laughter) [LR128]

SENATOR LANGEMEIER: Are there any...? Senator Haar. [LR128]

SENATOR HAAR: Thank you. Senator Lamb, I'm a new senator. [LR128]

HOWARD LAMB: Yes, but...and you're young. I heard you say to this young man that you're old. (Laughter) But everything is comparable, you know, and so I look at you as young. And I remember when you were around Lincoln a lot... [LR128]

SENATOR HAAR: City Council. [LR128]

HOWARD LAMB: ...and doing a lot of things. [LR128]

SENATOR HAAR: Yeah, Well, okay, that's an important perspective, thank you. Well, first of all, about 80 percent of my district is urban but I'm really pleased to be here because I think it's important that all of Nebraska look at how we all have to work together. So I'm very pleased to be here. I appreciate that Senator Langemeier has put us on a tour of western Nebraska because there's parts of that that I don't understand

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

as well. Just another...one of my emphasis right now, the other great resource besides water is our wind. [LR128]

HOWARD LAMB: Wind. Let me get...I've been reading the papers. (Laughter) [LR128]

SENATOR HAAR: Well, some of the recent studies show that we're perhaps number three in the nation in terms of wind potential and I think we have to use that as well. Now, I have a...my final question. This is not necessarily easy. (Laugh) With term limits right now, and water issue being...well, somebody told me when I joined this committee that whiskey's for drinking, water's for fighting. (Laugh) And it's very political obviously and the policies that we put in place. With term limits in place and people coming and going in eight-year time spans, how do we build in that history of that it's important to keep important water policy going? [LR128]

HOWARD LAMB: Very difficult. I've opposed term limits from the beginning and now we're about ready to lose our Senator Fischer who is a very effective person down in the Legislature and very knowledgeable. And we're going to lose a lot of people. In, you know, two terms, is eight years, that's not very long to develop a lot of expertise. I remember when Senator Kremer, Senator Warner, who were there for years, and we looked up to them because they had the perspective. They knew what had happened before and it was a valuable resource and I don't know. I don't know how you can do it with term limits but it will probably be taken over more by private concerns or private groups, you know, like Farm Bureau. They were here today. NPPD will probably have a greater voice. Other organizations like that that really have a consistent voice in the state will take a greater role. But that doesn't mean that you people can sit around and twiddle your thumbs, you know. (Laughter) You need to face up to these questions and try to answer them. [LR128]

SENATOR HAAR: Thank you very much. [LR128]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

SENATOR LANGEMEIER: Other questions? Senator Schilz. [LR128]

SENATOR SCHILZ: Senator Langemeier, thank you. Senator Lamb, thanks so much for being here this morning. As Senator Haar said, you know, being out here in western Nebraska tomorrow, we'll get him almost out to western Nebraska to Ogallala.

(Laughter) But as you said, and I don't want this to be a difficult question but you're talking about...are you talking about creating an economy around water to where water marketing, things like that? Or are you....when we talk about that are you...is that one of the perspectives that you're talking about and thinking of how do you fund these? [LR128]

HOWARD LAMB: I'm really talking about industries that use water, agriculture, you know, generating electricity, ethanol uses water, and industry that uses water should be welcomed and not turned away because we think, oh, we may some day run out of water. Well, you know, unlike coal, coal really doesn't replace itself, at least not very fast. Water, we're getting some of it right here today. It's a replenishable resource and, you know, in my long life I've seen these cycles of, and you have too, of drought and then rain. And we get all excited about the lack of water when we have a few dry years and then all that excitement kind of goes away when we have five or ten years of wet weather. And so, yeah, we have to be concerned about the quantity of water in the state but let's not be overly concerned and back away from using it. [LR128]

SENATOR SCHILZ: So it's not just term limits that affect our ability to manage our resource wisely? [LR128]

HOWARD LAMB: No. (Laughter) No. [LR128]

SENATOR SCHILZ: Thank you. [LR128]

SENATOR LANGEMEIER: Senator Fischer. [LR128]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

SENATOR FISCHER: Thank you, Chairman Langemeier. I just wanted to say, welcome, Senator Lamb. It's always a pleasure to see you and be in contact with you. And I always appreciate your insight, so thank you for being here. [LR128]

HOWARD LAMB: Thank you. Thank you. Did you know that Senator Fischer's father was head of the Department of Roads? [LR128]

SENATOR LANGEMEIER: Yes. She has reminded us on an occasion or two.
(Laughter) [LR128]

HOWARD LAMB: Now she's Chair, she's Chair of the Transportation Committee.
[LR128]

SENATOR FISCHER: I seem to be following in Senator Lamb's footsteps. He was the first chair of the Transportation and Telecommunications Committee and served for many years in the Natural Resources Committee, so it is an honor to follow in your footsteps. [LR128]

HOWARD LAMB: Well, you know, she followed me just to see that I was voting right. See, she kept me on... (laughter) [LR128]

SENATOR FISCHER: I kept tabs on you. [LR128]

HOWARD LAMB: She kept me on the straight and narrow for a lot of years. She's had a great interest in Nebraska not politics but state government a lot of years, 20, 25 years.
[LR128]

SENATOR FISCHER: So enough of the lovefest, but it is always, always a pleasure to see you and your wife. Thank you. [LR128]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

HOWARD LAMB: Thank you. [LR128]

SENATOR LANGEMEIER: I don't know that you're quite done yet. Senator Carlson.
[LR128]

HOWARD LAMB: Yes. [LR128]

SENATOR CARLSON: Senator Langemeier. Senator Lamb, I'm going to use a little bit different figures than what you did initially. Whether I'm right or not, I've been saying we have a million acre-feet flowing into the state and 8 million flowing out. [LR128]

HOWARD LAMB: That could be. I don't know. I don't have the latest numbers. I'm out of date. [LR128]

SENATOR CARLSON: Well, in this day and age with our technology and our ability, we ought to be able to store or divert or move water to a position where there's plenty and we can use it. The only thing that costs is money. Should state dollars be used to solve local situations in relationship to shortages of water? [LR128]

HOWARD LAMB: You know, I would have reservations about that. You know, I like to see private enterprise handle it. I don't know if that's possible or not but, you know, when you get in the state dollars, where do you quit? Where do you quit? So it's a problem and maybe that's not right, maybe this state should be in it, but from my own conservative standpoint getting the government involved with it is really not the way to go. [LR128]

SENATOR CARLSON: Well, I think there's a risk there and, paralleling with your conservative nature, I would think you'd also believe that local entities that are affected that want to solve their problem should have a funding mechanism that they can. Would

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

you agree with that? [LR128]

HOWARD LAMB: Well, I'm not going to say a blanket yes because it depends a lot on what the funding mechanism is. If you're talking about property taxes, I'm going to say no. If you're talking about some tax that affects Senator Haar, well, maybe, maybe (laughter). [LR128]

SENATOR CARLSON: So if a local NRD has got a difficult water problem to solve and there don't appear to be state dollars available to do it, you don't believe that a local property tax should be able to be used, and I guess the Supreme Court is going to agree with you on that. What about any other form of funding so that a problem can be solved rather than a business closed? [LR128]

HOWARD LAMB: Okay. All right. I would just repeat that I would have a serious reservations about it and, you know, we're not...the devil's always in the details, but in general I would certainly have deep reservations about, well, for instance a property tax on everybody in the NRD that would benefit maybe only a few people. That causes me a problem. [LR128]

SENATOR CARLSON: Well, you bring out what is a very, very difficult problem because the end result, if there is no source of revenue, is business doors close. And a lot of us are really concerned about that. [LR128]

HOWARD LAMB: I can understand that and I know something about your district, but let me just throw this out: Is a cooperative agreement, a corporation within the realm of possibility? You know, I'm going to benefit from it, my banker is going to benefit from this. We're going to farm a cooperative. We're going to do what is necessary to transport that water, but we're not going to dig into state funding. We're going to do it on a private enterprise basis. I don't know if that's possible, but that's the way I would like to see it go. [LR128]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

SENATOR CARLSON: Well, I agree with you in that that needs to be available to go that way, otherwise if my well gets shut off, my banker is not going to be happy and I got to pay for that well, so I'm not going to be happy. And if it's like there's a law between us, it's a terrible problem and that's what we're facing. So I didn't mean to prolong your response to this, but I appreciate your discussion. [LR128]

HOWARD LAMB: Well, thank you. [LR128]

SENATOR LANGEMEIER: Senator Haar has some questions. [LR128]

SENATOR HAAR: Yeah. Just one further comment on renewable energies. Wind and solar will save, at least nationwide, a huge amount of water use that we now use in terms of power generation. So I see not only harvesting the wind, but also saving water in that same process. Thank you very much. [LR128]

HOWARD LAMB: Thank you. [LR128]

SENATOR LANGEMEIER: Senator Lamb, thank you for your testimony. Come on up. And as we're moving it through time, we'll remind people of the lights. When you get to the red light, you need to resolve and then let people ask you questions. Welcome. [LR128]

RON WOLF: Mr. Chairman, members of committee, my name is Ron Wolf, W-o-l-f. We're the poor wolves, we don't have the "e." (Laughter) We...you've asked for some details on what is a water plan. And there's a group, the Nebraska Water Resources Association, we've been discussing this. We're comprised, our membership, cities, power, recreation, surface water, financial, groundwater, business and industry, legal, and ag. I think that's part of what you have to have involved. I don't know about the environmental interests, but we've come up with a few "think about these, please" deals.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

There's a lot of knowledge, experience out there. I think consultants or a set of facilitators might be a good place to start. Bring people together. You're going to need all these various entities who among them will probably be able to identify a lot of the needs and problems. Where the prioritization of those comes in, I think that's part of where the state needs to be involved. Some issues are strictly local, some may be larger, but you need that input. You've got a lot of data out there. You've got a lot of gaps. You might consider involving the university. Some of the previous plans, water plans, may be looked at to fill some of these gaps. Conflict resolution involving some of the entities and interests varied up front I think will help resolve that, but you need to have a plan because any time your goat gets fat, my ox probably got gored. We're going to have a conflict. So you need to be thinking of a process of a way to make this come together. There's some projects underway; there's some plan; there's some needed. There's some that we probably can't even envision until people start setting down and pulling data together and opening these doorways. I know this is...I don't like plans. People tend to use...some people tend to use plans to stall off action. But I think if you're going to start a plan, start it. Please think about something on this order so that you've got a lot of the up-front stuff up front. I'm leaving the hard part until last. I think this committee...it would be good to discuss with these interest groups and among yourselves. I have to agree with Senator Lamb. Even when he was in the Legislature I didn't care for state government too much. So I've enjoyed about all of it I need, but I do think you need an administrative agency, commission, or something or this will become, as you mention, another document, very impressive, it'll lay there and gather dust. You need to decide, should it be a code agency? There's pros and cons to that. And I'm sure you're aware of that more than I am, Senator Langemeier. Or should it be maybe a commission? And there's pros and cons to that too. Maybe you could look at...we all make mistakes. One I made was I thought it would be a good deal to merge the Department of Natural Resources and the Natural Resources Commission. It's put that whole department in a bind. They're, on the one hand, responsible for advocacy; on the other hand, they are the hearing officer if I come to them with a plan. This is not good; it's not a good situation. Maybe take a look at splitting that into a state water planning

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

agency or commission who can advocate to the Legislature and others, help your local entities if there's cost share, get something on the books, get it moving, and on the other split leave an administrative and regulatory agency. These are three of the options we've discussed among the varied interests here that...I see my time is up. Thank you. You got me out of the funding. We had some stuff there that we had talked about, but if I can answer any questions, I'll sure try. [LR128]

SENATOR LANGEMEIER: Okay. Are there any questions? Are there any questions for Mr. Wolf? Senator Carlson. [LR128]

SENATOR CARLSON: Senator Langemeier. Ron, I'll just ask you, what about funding? [LR128]

RON WOLF: (Laugh) well, you're going to need some seed money right up front because if you get the right kind of facilitators, it's going to take them, (1) the right personality, somebody with some experience, knowledge, history. Maybe, (2) maybe you need somebody like that from the legal side because right now we've got water laws scattered through I think every chapter except adoption in the books, and some of them are a little contradictory. LB962 cleared up a lot of that, but there's still a lot of that out there. So you may want...or an action that's being looked at may benefit from some up-front consultation. On the other hand, some water experience. And these...like I say, there's some people out there. I don't have permission or anything to mention anybody's names, but they're out there. I don't think it's a bank buster, but to make this work, you're going to have to be able to pay them, you're going to have some meeting expenses, and depending on what the Legislature decides on how to set this up, you're probably going to need some basic administrative and support staff to start with to track this stuff, scheduling, put it together. I think that should be under the old side of this committee. I think...I don't know how you folks do it. I do it every time I sign a note at the bank; I make what is called a "commitment to continue to fund." The banker doesn't seem to give me any choice when that payment is due. He doesn't truly care where I go

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

get it, but I will go get it. And I think that's one of the things that's been lacking in these state water plans is, (a) legislative intent to fund for the duration until something moves. I think you need the continuity. Senator, you asked about that. Without the continuity, without...you can have the plan. All right. Now you got it, let's do this first, let's do this second, get the money, let's roll. I don't care for taxes either, but with proper implementation of a good state water plan, you help not only ag taxpayers, you help municipal taxpayers, you remove some of the risk if you've got a plan and you know where you're going. I may not be in a position that I'm going to sink a well that five years later I'm not going to be able to pay for because it's getting shut off. It will pay you back, correct? Water plan and follow actions to it I think will pay this state big returns. That's one of the tough ones I see, and I agree with the previous speakers. One size doesn't fit all. I've been told there's more climatic change from Harrison, Nebraska, to Falls City than there is from Falls City to the east coast as far as pole climatic change. That's not very many isobars on a map, so you can split it east/west by river basin, then you need to split it north/south by your isobars. You may be looking at some very site-specific instances. Did I get there on the funding, Senator? [LR128]

SENATOR CARLSON: Well, partially. Now, I'm going to say something here and I don't want to step on any toes, but I'm a little concerned about some things you said. I'm a little concerned about a couple of things that Senator Lamb said. A lot of us at this point over the last few months have decided that the federal government is out of control. You're spending too much money, there's no end to it. We're concerned about loss of freedoms. we're concerned about loss of the privilege of making decisions. I think you're tracking with me here. [LR128]

RON WOLF: Very much so. [LR128]

SENATOR CARLSON: You made the statement initially something to the effect that you don't much like state government, and that's probably because you don't like to have mandates rammed down your throat. You want an input into how decisions are made.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

On the other hand, I kind of hear that we need a state water policy. And if we have a state water policy, somebody has got to make that decision and that decision is probably going to be the state. But then I also hear you're kind of reticent to have things funded by more taxes. I don't even argue with that. But that's the constant conflict as we move along. If we have a state plan, it needs to be funded. Somebody has got to fund it, that's probably tax dollars. We're individuals; we like to solve things on our own initiative, but we've got to have the freedom to do that. So there's a struggle there and I don't really hear an answer. [LR128]

RON WOLF: Let me rephrase the "I don't care for state government." I don't much like any government (laughter) because... [LR128]

SENATOR CARLSON: I caught that, that's what I caught. [LR128]

RON WOLF: ...I like to be able to do what I want to do. On the other hand, I do realize there are times that what...that my desires may not be helpful to the community or Senator Haar's needs maybe shouldn't take precedence over the whole state, hence we have a state government. One of the responsibilities of state government is to garner funds with which to properly operate this state. I don't care for any taxes either. I don't even like local taxes. But there are proper uses for tax money, one of which is to avoid problems, another of which is anytime you have a workable plan that you can bring multiple interests together on and fund it, you remove risk. Those tend to pay you back in a society like we've got today. If you can remove risk, show sustainability, which is the ability to use all of it you can without screwing it up. I heard you ask for a definition. [LR128]

SENATOR HAAR: (Laugh) That's a good one. [LR128]

RON WOLF: That's, you know,...don't stop...we can't stop development in the state. That's just not going to work. Maybe we have to develop a little different...I don't

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Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

know...we need...I can't do it as an individual, I don't know as any of you can. As a legislative body we can get some direction, I think. [LR128]

SENATOR CARLSON: Thank you. [LR128]

SENATOR LANGEMEIER: Senator Schilz. [LR128]

SENATOR SCHILZ: Thank you. Mr. Wolf, thanks for coming in today. Let me just ask you one question. With all that you've said before about your dislike or distaste or whatever for government, from what I take from you is that if you're going to do this, that if you're going to set up a plan, you want to make sure that it's more of an enabling plan rather than a put the screws to you kind of plan so that people and individuals have the flexibility to do on their own land the things that make sense to them and also possibly provide for the betterment of the system overall. Correct? [LR128]

RON WOLF: I think you're going to have to, Senator. Again, one size won't fit all. You've got a lot of local resources--NRDs, the university, USGS--that can give you some background data that may give you an inkling of where should we go in this area. I'd like to see you lean on the local approach, maybe basin, maybe even subbasin, it depends on the situation. But, yes, I agree with you. I don't like mandates. I think you need some local input. And I agree with Mr. Barels. One of the things you might look at is if you have an arm that can advocate for projects along with local entities, maybe the state could look at some state funds being involved if it's in the state's interest, if it's not, if it's going to put all the money in my pocket, then I should have to pay for it. [LR128]

SENATOR SCHILZ: Thank you. [LR128]

SENATOR LANGEMEIER: Okay. Very good. Thank you very much, Mr. Wolf. [LR128]

RON WOLF: Thank you for your patience with me again, appreciate it. [LR128]

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Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

SENATOR LANGEMEIER: Thank you for your testimony. Very good. Joe, come on up.
[LR128]

JOE ANDERJASKA: Thank you. My name is Joe Anderjaska, J-o-e Anderjaska, A-n-d-e-r-j-a-s-k-a, just like it sounds. As I said, my name is Joe Anderjaska. I am in my third term as a board member of the Middle Republican Natural Resources District, and the district representative to the Board of the Nebraska Association of Resources Districts where I currently hold the office of vice president. This testimony is offered in a neutral capacity toward LR128. Groundwater and surface water have developed under two entirely different systems in Nebraska. Our first attempt to manage these waters together was in LB108 in 1996. While the legislation never really had the opportunity to be utilized, the later attempt at integrated management through LB962 has seen the test of fire. Our integrated management statutes have been and will need to be continually updated to meet the needs that arise. These integrated management laws set up state water plans in each of the river basins in Nebraska. The NRDs have met the challenge of LB962 and with the state have adopted numerous integrated management plans. Nebraska is still lacking in reliable and continuous funding mechanism to assist both the state and the NRDs in addressing integrated management. While the decisions can and have been made at the local level, often there is not sufficient funding to adopt the programs that are needed. While I don't think there needs to be a major effort toward a state water plan with regard to the resource, there is a need to bring together a system that can prioritize and fund projects for long-term management of our water resources. Thank you. [LR128]

SENATOR LANGEMEIER: Very good. Are there any questions? Senator Schilz.
[LR128]

SENATOR SCHILZ: Thank you. Joe, thanks for coming in today. I just wonder, being from the Middle Republican and all the issues you have there and we always talk about

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Rough Draft

Natural Resources Committee
October 05, 2009

funding and how difficult that has really been to find what we need, do you see that there would be a possibility going forward if a plan was done correctly that the management of the resource itself could provide the incentives to be able to go out and afford some of this that's going on? [LR128]

JOE ANDERJASKA: Yes. [LR128]

SENATOR SCHILZ: And what I'm saying is, is what we've talked about before where we're managing the water or watering the resource in times of plenty for times of not so plenty. And I'm not saying that we should throw a tax upon it or anything like that, but what I'm saying is that if you can stabilize the groundwater or increase the groundwater in a certain area, are there enough economic benefits from doing that to make up for what it's going to cost going forward over a long term? [LR128]

JOE ANDERJASKA: You know, that's a really tough question because in the Middle Republican we can't allocate ourselves out of the situation we're in, and if we try to do that I feel that the economic outcome of it is disastrous. [LR128]

SENATOR SCHILZ: Right. [LR128]

JOE ANDERJASKA: You know, I think that the people in our district have come to a sad realization that the amount of water that we have is kind of what we're going to need, and they...we're kind of backed up into a situation now where the options are pretty limited, if there are any options. And as a district, I think we're on the right track. We've done a lot of things very positive and we're taking care of the situation, but our biggest problem is funding. And I think the people in the district have realized that when it comes to paying more taxes or not having any water that they're willing to pay the taxes. And I guess we would like to see the occupation tax changed so we could use that. And when I went on the board nine years ago...I think in nine years I've voted yes on two budgets. I hate taxes. But I also look at our district and we won't have a district out there

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Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

if we shut the water off, you know. If we go down to a five-inch allocation or if we use our red box and shut off alluvial wells, we won't have a district out there. You know, it will be terrible. So if we look at it, you know, (inaudible) a lot rather pay \$10 an acre for 15 years to get some of these programs paid for? Yeah. I'll do it. [LR128]

SENATOR SCHILZ: Um-hum. And then when you talk about these programs, what are...are those programs looking forward in how to create a more sustainable system as we move forward? [LR128]

JOE ANDERJASKA: Right. [LR128]

SENATOR SCHILZ: Or are they just looking to pay irrigators not to irrigate that year? [LR128]

JOE ANDERJASKA: No, no, no. [LR128]

SENATOR SCHILZ: I think that's a misperception that may be out there. [LR128]

JOE ANDERJASKA: Right, I think it is too. Yes. Yes. No, we're looking at, you know, at being sustainable to the future. You know, that's...when I went on the board, you know...I am a rancher and a farmer. I have one irrigation well which is planted in the grass. I think of myself as a cattleman not a farmer, but I do farm. But on the board, I was looking at it, you know, trying to protect everybody's livelihood, but I had a newborn baby and, you know, I have to look at it, a hundred years isn't very long for that little baby. You know, I want him to be able to go to the sink, get a glass of water. You know, I want...my neighbor has no farm ground for that windmill to pump all the time to have those cows have water. I mean, you know, we have to look at the broad spectrum. You know, I've worked really hard with industry and municipalities in my district to try to make it fair for everybody. And, you know, with the occupation tax, is it fair? You know, I don't know. Maybe. Maybe not. You know, the irrigators are the biggest user of the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

water. So they will be the one paying the brunt of the tax. But you look at it, the people in the city, you know, in my district if we don't have irrigation water, the city of McCook is not going to last very long. You know, that rancher is sitting there with no farm ground. He needs a place to run his cows in the wintertime. He rents his irrigated corn stalks. You know, it effects everybody in our district, but I think that the people using the majority of the water are willing to step up and pay the bill. [LR128]

SENATOR SCHILZ: Right. Thank you. I think it's absolutely essential that wherever you are in the state that you find ways to come upon because anytime there's a water-short year, if you have to go to the bank to find money to pay people to shut off, I think it's a losing perspective... [LR128]

JOE ANDERJASKA: Right. [LR128]

SENATOR SCHILZ: ...long term going forward and I hope that the NRDs down there...well, all over the state understand that because you can't just continue to spend money that way without doing some proactive stuff on the other side to make it work. [LR128]

JOE ANDERJASKA: Right. [LR128]

SENATOR SCHILZ: Thank you very much. [LR128]

SENATOR LANGEMEIER: Senator Carlson. [LR128]

SENATOR CARLSON: Senator Langemeier. Joe, You're in a basin that you're faced as a board member of an NRD with solving a problem...well, you can say you didn't create it, you had a hand in it, but you had nothing to do with that agreement or that compact that's got to be adhered to. So it's your responsibility to try and see how we best contend with this challenge that's in front of you. Correct? [LR128]

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Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

JOE ANDERJASKA: Um-hum. [LR128]

SENATOR CARLSON: And probably you think, as many of us do, that that's a state obligation. Realism tells you that you have a state obligation, but the state is not going to solve it probably in the way that we would best see it solved. But you made a statement that we can't further allocate ourselves into...you didn't use the word "compliance," but I think that's what you meant. [LR128]

JOE ANDERJASKA: Right. [LR128]

SENATOR CARLSON: What do you mean by that? [LR128]

JOE ANDERJASKA: We could shut off every well in the Middle Republican and we're not going to get anymore water in that stream. You know, when people look at all the upland wells, yes, they do have an effect to the stream, but it's a very long-term effect. And with the programs that we have in place, you know, we're looking at that. That's in our programs, that's in, you know, our plans. But, you know, our water-short year to say that we're going to go in and shut everybody off, you know, the upland wells, it's not going to do any good. You know, if we set ourselves down at a five-inch allocation, there will be more water in the stream but then there's going to be a lot of years where there's way too much water running down the stream and we have people going hungry, people without jobs because they don't have enough water to irrigate their crops and to use the water efficiently like they need to use it. [LR128]

SENATOR CARLSON: Are you saying...I don't think you are, but it sounded like it, are you saying that a five-inch allocation is no different than a zero allocation? [LR128]

JOE ANDERJASKA: Oh, it's some difference, but it's not the answer. You know, in our district five inches is less than half enough. So, you know, what are the people

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Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

supposed to do? Do they raise half a crop that they cannot collect irrigated insurance on because you have to be able to apply enough water on that crop to meet your APA going into it or do the people plant, you know, less than half of acres and, you know, put on 12 inches that they need for that crop? You know, economically it's not going to work. [LR128]

SENATOR CARLSON: So you really don't see any difference between a five-inch allocation and a zero allocation? [LR128]

JOE ANDERJASKA: I don't. It won't work in my district... [LR128]

SENATOR CARLSON: You won't vote on it... [LR128]

JOE ANDERJASKA: ...all of our districts. [LR128]

SENATOR CARLSON: Will you vote for a zero allocation? [LR128]

JOE ANDERJASKA: No. [LR128]

SENATOR CARLSON: Good. And our discussion here, it's just further bringing up the difficulty of this problem and the necessity for a local group to have some way to fund a solution, long term. Thank you. [LR128]

SENATOR LANGEMEIER: Senator Haar. [LR128]

SENATOR HAAR: Thank you. The question I have is this: Senator Carlson has a program for removing invasive species and I voted for that, being, again, most of my constituency is urban. Do you think...and you talked earlier about people stepping up to the plate, do you think payment for that sort of program should be statewide, as I voted, or do you think that should...payment for that should be more local? [LR128]

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Rough Draft

Natural Resources Committee
October 05, 2009

JOE ANDERJASKA: No, I think statewide. You know, I firsthand see the benefits of it and it's tremendous. You know, it's a program we need to work on statewide. [LR128]

SENATOR HAAR: Good. Thank you. [LR128]

SENATOR LANGEMEIER: Joe, I'm going ask you one question. First of all, I want to commend you as the NRDs, the role of being on an NRD gets tougher and tougher and tougher, and then you had to run for school board on top of it. (Laughter) [LR128]

JOE ANDERJASKA: I got appointed to school board, so I didn't run. [LR128]

SENATOR LANGEMEIER: Oh, well, still serving that role. When you talk about the zero to five inches you had with Senator Carlson and a crop, you're talking about irrigated corn, correct? [LR128]

JOE ANDERJASKA: Yeah. You know... [LR128]

SENATOR LANGEMEIER: Would not five inches be adequate for irrigated wheat? [LR128]

JOE ANDERJASKA: No. No, you know...well, you know, I guess it's how you want to look at it. You know, you could probably put five inches on irrigated wheat, but your yield is going to be the same as dryland pretty much. I mean, I just really don't see, you know, a boost in yield at all. And that's something I guess I need to really commend the people in our district. You know, we went from being able to use all the water that they wanted to putting on meters to being allocated. You know, and our allocation has dropped now. And those people, they've really become better farms and better stewards, you know. A lot of rotations have been put into place, you know, like me with my irrigated grass. You know, last couple of years with corn prices, you know, my

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Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

banker sits there and shakes his head. You know, it doesn't look very smart. But I get by with, you know, pretty small use of water on that grass. And that's the way with a lot of the rotations that are put in place. A lot of the farmers have done it to save water and not looked at the economic side of it because they haven't always planted the crop that was going to make them the most money. They've planted the crop that they've needed to, to get by with the amount of water that they have. So not only are the farmers willing to pay the extra money in taxes but, you know, they've really stepped up to the plate because there's a lot of income that they've passed up on, you know, by some of these rotations that they've implemented. [LR128]

SENATOR LANGEMEIER: Okay. Thank you very much, did a great job. [LR128]

JOE ANDERJASKA: Thank you. [LR128]

SENATOR LANGEMEIER: Further testimony on LR128. Mr. Fanning, welcome.
[LR128]

JASPER FANNING: Thank you, Senator Langemeier and other committee members. My name is Jasper Fanning, J-a-s-p-e-r F-a-n-n-i-n-g. I'm the general manager of the Upper Republican and Natural Resources District in Imperial. I have a Ph.D. in agricultural economics, grew up on a farm northwest of Benkelman. I'm one of those irrigated farmers that you were just talking about there, too, there in the Republican facing all of this issue, but it's my day-to-day job to kind of have a role in that. And I want to thank some of the senators for their good questions about the Republican. And this isn't necessarily a hearing on the Republican, but I think a lot of the things that we're doing in the Republican Basin go into a statewide water plan. First of all, I'd like the committee to recognize all of the planning that's done across this state currently. I think it's important if you're looking at a state water plan that we recognize all that we do in Nebraska. Secondly, a lot of other western states have developed state water plans and a lot have not developed a formal state water plan. Now, each of those states including Nebraska

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

that doesn't have, if you will, an ongoing state water planning process has done significant water planning at a regional and local level. And I think in Nebraska, especially given our NRD system and the uniqueness between river basins as well as even within river basins, requires that if we look at a statewide water plan that we do it at the local level, if you will, take the uniqueness of the resources and work up from there. I want to remind the committee, a few years back I witnessed and was somewhat involved with a group of water policy task force members, put great effort into identifying projects, if you will, that Nebraska might need to undertake to implement LB962 and some of the funding requirements. To be quite honest, when that was compiled there was sticker shock in terms of the money necessary to manage water in Nebraska, and that didn't go anywhere. And I'll just say right now that if that's going to be the purpose of the statewide water plan to identify projects that need to be undertaken and their funding mechanism, if we're going to have sticker shock, we may not want to use the resources to develop the plan in the first place. But if we're going to seriously set down and take a look at how we manage water in this state moving forward in a proactive manner, it could be a worthwhile endeavor. But we have to make sure that we do it right. As previous testifiers said, we don't want something that just sits on a shelf and nothing is done in the past. But I did a little bit of research on what other states have done and, by and large, there's about ten states in the western U.S. that have a formal water plan. There's about a half a dozen others that have some regional planning but maybe not something titled a formal state water plan. And their objectives and what they try to accomplish in the state water plans is very diverse. I would say that the common things are fulfilling a legislative mandate. There were some that were real generic. We created a plan because the Legislature said we had to. They didn't look very useful to me. Another common objective was educating decision makers and the public, which there is, you know, a lot of current educational things that we do in this state to keep folks informed about water and those kinds of things. It was somewhat of a compilation, if you will. Within Nebraska we have a lot of existing work and planning that's out there. Some of these state plans simply took that regional planning and compiled it into one document. Is that a useful use of resources? I'm not sure. It's already out there. Do we

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

need to spend a lot of state dollars to simply pull it into one document? I think one of the things that some of the more dynamic, aggressive, forward-looking plans had was that it was designed to be a strategic plan that was developed for policy and project development, including funding. And I think some of the better plans that I looked at quite well linked the local and regional planning and project development to state funding, and there was this link between identifying projects and their benefits and their values and state funding. They were moving forward with projects. I'd say maybe the biggest drawback that we have in Nebraska is we have a little bit too much water and that's a good problem to have. But in other states in the arid west they are dealing with very much more critical shortages, if you will, and so sometimes it's a matter of having no water or doing this project. They're bringing water in for all sorts of reasons to other parts of the state that wouldn't otherwise have a water supply, often surface-water projects. But those states are much more aggressive in proposing projects, identifying projects, and putting them on the ground than we are here in Nebraska. Senators have already mentioned that in Nebraska we have 1 million acre-feet of water coming in and about 8 going out. But I think that the linking the plan to funding and actually putting projects on the ground is critical to have a valuable plan for Nebraska. I think it has to involved the local people, the local people up. And questions were asked earlier about how should we fund water in Nebraska, there's only one thing that makes sense to me, and other states use this as well. Find a tax source, it's obviously going to be tax based somewhere, somehow, but find a tax source that nonresidents of the state of Nebraska at least pay a percentage of. Move that cost to nonresidents of Nebraska as much as we can. The best taxes for Nebraska are those that other states pay, similar to the example for Wyoming coal, the excise tax. Let other states...they let other states and residents of other states pay for their projects. We may not be able to do that to the same extent, but those are the types of things that we need to identify. Let those other people who actually benefit from water outside the state of Nebraska...I'd hate to guess at how much of the corn produced in southwest and south central Nebraska goes to Colorado and Kansas to feed livestock in those states. A bunch. But the thing that we need to keep in mind as we move forward is that projects are cheap, water projects and

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

management are cheap. Whether it's tens of millions or hundreds of millions, those projects are cheap relative to what we're doing right now with LB962 which is strictly regulation. We're shutting off economic development in this state because we have sticker shock and we're afraid to look at projects that cost money. And I will provide further written testimony in the near future, but I just wanted to make some of those points and draw some of that together. [LR128]

SENATOR LANGEMEIER: Appreciate that. Questions? Seeing none, they're going to let you off the hook easy. [LR128]

JASPER FANNING: I guess so. Thank you. [LR128]

SENATOR LANGEMEIER: No questions. Thank you very much for your testimony. Other testimony for LR128? Looks like we're done. I am not going to close. And we'll move promptly into LR181. And I want to thank everybody that testified on LR128. Move to LR181 and Senator McCoy will open on it. [LR128]

SENATOR McCOY: (Exhibits 4-9) Thank you, Chairman Langemeier and members of the committee and everyone here today. I'm Beau McCoy, B-e-a-u M-c-C-o-y, and I represent the 39th District in the Legislature. I'm going to expedite my opening remarks here a little bit. But I'm here to introduce LR181, which is the interim study to examine the feasibility and benefits of restructuring the natural resources districts to potentially encompass the entirety of a river basin or a specific area of the state. This study also seeks to analyze and explore the processes and ramifications of realigning, and perhaps reducing, the number of natural resources districts. For five generations, my family has ranched along the banks of a tributary of the Republican River, the Arikaree River west of Haigler, Nebraska. Being raised there and often wondered if my great-grandparents, who were homesteaded, could ever have dreamed how far the ranching and farming industry would come in 110 years. But then I've often also been reminded that some things never change. Water, which we've talked about already a

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Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

good portion of the morning, which was the lifeblood not only to my great-grandparents but every settler that homesteaded this great state is every bit as important to agriculture economy today or perhaps more so. Since 1972, natural resources districts have protected and managed water as the most precious natural resource to our state. During a discussion in 1969 on LB1357 that created the natural resources districts, Warren Fairchild who was the executive secretary of the Nebraska Soil and Water Conservation Commission stated and I quote, Now what is the objective of LB1357? Well, the objective of any natural resource bill should be two-fold. It should be for efficient, effective government and it should be to accelerate the natural resource programs, end quote. This is fundamentally why I introduced LR181 and what, in part, brings us here today: to evaluate the efficiency and effectiveness of our natural resources districts in meeting the challenges of today--which, again, we've talked a lot about this morning--in regards to the stewardship of our natural resources. Without question one of the most public challenges facing our natural resources district system revolves around the Republican River compact with the state of Kansas and the ongoing litigation between our two states. It is difficult to properly understand the strain this water management situation has caused for the stakeholders and communities in this river basin. Compliance with this compact is the responsibility of the NRDs involved, but ultimately rests at the feet of the Legislature and the state of Nebraska according to the arbitrator's ruling earlier this year. This issue, however, goes beyond any single river basin. The management of our water resources effects truly every Nebraskan from Scottsbluff to Omaha. We cannot afford to leave any stone unturned, in my view, or any option unexplored as we endeavor to preserve and maintain our state's agriculture and overall economy. This interim study seeks to develop and examine one of those options. Changes have been made and will continue to be made in the march towards long-term compliance with our water compact responsibilities. We must be visionary in our thinking and willing to look at long-range solutions to this very complex and multifaceted situation. I have every confidence that the same spirit of ingenuity and creativity that inspired all of our homesteading ancestors to build the state we are so proud of is still with us today and will sustain us through this challenging time. And I look

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Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

forward to discussion which, again, we've started this morning and continue this morning from earlier conversations and the ideas and thoughts that I hope it will foster. I really truly believe we can find the right solutions to the problems before us if we are willing to work together cooperatively. Thank you and I'd certainly take any questions if there are any. [LR181]

SENATOR LANGEMEIER: Thank you, Senator McCoy. Are there any questions for Senator McCoy to start? You always get off easy. Just for an idea, how many are going to testify towards this one? Can I just see a show of hands? (Laugh) Okay. We're going to have to roll right along. Okay. [LR181]

SENATOR FISCHER: Follow the lights. [LR181]

SENATOR LANGEMEIER: Yeah. We're going to have to go with the lights and maybe we won't ask too many questions, who knows. Welcome. We want to hear from you all, so. [LR181]

LARRY MOORE: (Exhibits 10, 11) Good day, senators. Having sat on your side of the table at many hearing, I admire your ability to sit in those chairs that long. (Laughter) They're really comfortable. My name is Larry Moore, L-a-r-r-y M-o-o-r-e. I'm here today on behalf of the Big Blue NRD board of directors of which I am a member. I'm testifying today in support of the current NRD structure and the current 12 authorities that the NRDs are empowered to use. I've been involved with NRDs closely since 1974. And in '72 and '73, I worked for Raymond Burke, one of the fathers of the NRD movement, and so I knew he was in Lincoln a lot doing something with Maurice Kremer and Harold Sieck but I wasn't sure what, but I found out shortly after. We own and operate a family farm, an irrigation, and if I don't screw it up too bad, the sixth generation is waiting in the wings there. Over the years...I'm going to give you a little background on myself and the things I've had a chance to do. Over the last 35 years, I've watched the districts grow and I learned a few things along the way. As I said, I've been on the board since 1975. I

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

had the opportunity to serve as water committee chairman in the late seventies when we developed our first groundwater management area for quantity, and that was adopted in 1979 and still in effect. I was also water committee chairman during the late nineties when we developed a water management area for water quality in our district, and that is a phased-in thing and we're now into the third phase in some areas of our state...in our district. I served as board chairman several years and many other offices. I had the opportunity to serve two different times in the Natural Resources Commission. The first time was in 1982-1986. And during that time, Senator Exon and Governor Kerrey got the idea that the Natural Resources Commission should hold hearings to determine the feasibility of declaring the Niobrara a wild, scenic river. And I was lucky enough to get to chair those meetings up and down the river. I've never been afraid of anything since then. Nothing has ever scared me after that. (Inaudible) toenails, (inaudible) my nose a couple of times. And if you ever met Tony (phonetic), you remember Tony (phonetic). I've also had a chance to serve on the Butler County Planning Commission. I'm a past-board members of the Natural Resources Associates Board. I've chaired the Natural Association Resources Districts. I had a chance to be a state delegate to the National Association of Conservation Districts to them. I had a chance to testify in front of Adrian Smith (inaudible) office. So I've had a chance over the years to grow along with the districts and to watch the movement develop in the time that Maurice Kremer and folks like he got it started. And I was lucky enough to be able to talk to Senator Lamb on a regular basis for guidance through the years when I was down there with the commission. The handouts that I have passed out to you today, you already have the...the white letter is a copy of a letter that our manager John Turnbull sent to Senator McCoy earlier outlining our particular district, what we do in our district, and priorities and getting into the nitty-gritties. So I'm not going to waste any time on that. The other handout is a copy of our latest newsletter, the "BLUEPRINT." It's a pretty good summary of in our district of who we are and what we do, but a lot of that history of that would apply to any district in the state. The districts share a common heritage. With that being said, I want to draw a few observations and I'll take questions. I've had the opportunity to watch the districts grow and mature over the years. We all

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Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

started out pretty green. And we all share the same 12 authorities across the state, but because of our unique characteristic across the state, we've prioritized those 12 authorities in different rankings. In our district, groundwater quantity and then quality have really been our primary that we worked with. When I first came on, we were very concerned about quantity. We're still concerned about quantity, but since 1960 in our basin--and we're pretty fortunate about this--we've doubled in our irrigation well since 1960. Our static water level has dropped six-tenths of a foot. We enjoy a very healthy recharge and we've been pretty active in (inaudible) that we've been fairly successful. In the nineties, we begin to see the water quality, the nitrate levels are slowly climbing, became concerned about that, and we started our water quality management areas. And I already think in the long haul water quality is going to be a lot bigger issue (inaudible) than quantity is. Quantity will always be there but the quality is going to be what drives the wagon. I think the strength of the districts is like in our area we're able to work on what we think is our strongest suit and our biggest problem, and the other districts have different priorities because of their characteristics. But also on big area problems, we work in a regional basis. You can see what the Republican River Basin districts are doing and you know what the Platte River Basins are doing. In our area, the Lower Blue and the Little Blue NRD have teamed up with us to do a hard logic study of our whole aquifer for the whole basin and we've about got it done, and that's a thing that was really needed. All the districts I know work with landowners to do conservation and I know they'll work with the urban people too. In our area, we have a lot of small communities that don't have the assets to hire planning people to help them plan long term. They just don't know where to go, they haven't got somebody to hire them when they get there, so we help them try to find the money to do planning. One of the things I'm really proud of is...I'll get faster here in a minute, but if it wasn't for that, these little districts couldn't do anything. The other thing is we have our written memorandum of understanding with the NRCS and we also work with the Fish and Game Commission. Through those understandings we've provide clerical help, we help administer equip, wildlife habitat programs, wetland improvement programs, CRP programs. So we're all kind of tied together not with just what we do on our own district, what we do across

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Natural Resources Committee
October 05, 2009

statewide, and I think every district works similar to that deal. With that, I'd answer any questions you'd have. I watched them grow for a long time and I guess we've kind of grown old together. [LR181]

SENATOR LANGEMEIER: Sure. Are there any questions? I do have one. Is your board...as we've heard so much today about funding and funding is a big issue, and an occupation tax seems to be a choice in some of the NRDs, is your board prepared to vote to support that to continue activities? [LR181]

LARRY MOORE: I think that we're going to have testimony probably tomorrow on the LR128, and I really don't want to get my thoughts on LR128 and LR181 mixed together, Senator. I've got some pretty strong thoughts on LR128, but I don't want to waste my time on...your time today on that. [LR181]

SENATOR LANGEMEIER: Sure, sure. Okay. Are there any other questions? Seeing none, thank you very much for your testimony. [LR181]

LARRY MOORE: Thank you. [LR181]

SENATOR LANGEMEIER: Further testimony on LR181. Welcome. [LR181]

DEAN JOCHEM: Hello, there. Thank you, Senator. My name is Dean Jochem. I am a director on the Middle Niobrara NRD and also represent Middle Niobrara NRD on the NARD board. I want to take slightly a different position here. I'm not handing anything out. You're going to have to depend on what I say, I guess. We have been telling all the good things we do, and we do a lot of good things. [LR181]

SENATOR LANGEMEIER: I got to stop you. You didn't spell it. I'm told I need you to spell your name. [LR181]

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Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

DEAN JOCHEM: Oh, okay. I can't spell. (Laughter) [LR181]

SENATOR LANGEMEIER: Then you can't testify. [LR181]

DEAN JOCHEM: Okay. Dean, D-e-a-n, Jochem, not a y, J-o-c-h-e-m. Sorry about that. [LR181]

SENATOR LANGEMEIER: Go ahead. Thanks. [LR181]

DEAN JOCHEM: I want to talk more about NRD structure, the reasons, for instance, that Senator McCoy sent out a letter to all NRD managers. And so, Senator, I've pulled some things out there that I want to, I guess, give my opinion on. And so from time to time I'll be pulling that out. One of the things is the uniqueness of each NRD. It is dependent upon people having knowledge. The further you spread out NRDs or anything else, the less you have specific knowledge of what's going on there. I'll use myself as an example, and I'm sure there are many directors that have better credentials maybe than I do. But I was born and raised in this NRD. I taught school at Ainsworth and Valentine for 38 years. I am a rancher and irrigated farmer. And I'm 71 years young. So I feel that I am fairly well qualified to understand, especially as an ag teacher can understand, natural resources. First thing that crossed my mind, if it isn't broke, why fix it? I don't think we're broke. How this happened as I understand, Senator McCoy, from your letter is that the Legislature approved Papio's bill which upset some of your fellow senators. But on the other hand, if it upset that many senators, why did that thing ever pass? So it goes beyond Omaha. What's the effect on the other 22 NRDs? We're still in business. We are not using that locally, we can't because it was for Papio only. We understand the important position we, as NRDs hold, and we have done a good job, I think. Why the questions? Can a better job be done from afar? And this is what we're talking about when we start talking about consolidation. The more you consolidate, the further away you get from the problem. The...we're responsible for and do face the locals who live and work here. The further away you move us...you know,

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Rough Draft

Natural Resources Committee
October 05, 2009

we're going to have an NRD board meeting this afternoon. If we do something wrong by this evening I'm sure we'll hear about it, not if we're down further east or west or whatever. The further away you get on...another thing, you know, if you consolidate, you're going to make me an expert because I'll be far enough away that I'm an expert. Right now, I'm just a board member. I'd like to make a comparison which I think fits quite well with what's going on here. When I retired from ag, I became a zoning administrator. I've been one for ten years. I think the structure for zoning illustrates what we've got here. There were state legislative laws passed that we function under, just like NRDs do. But now we are able to, county by county, develop our own zoning regulations within that structure. And they fall under the county commissioners. Now, what would it be like if we put about five counties together for zoning? Make it a lot easier on the zoning board because those people have a little harder time getting at them. And so, again, I think that this is an example why you do not want to restructure what we have got that's working well. Also, Senator McCoy, you mentioned in that letter that you were concerned with the lack of concern for the little guy. At the structure presently in place, the little guy has as much of a chance as the big guy, at least in our NRD and I'm sure most. As you consolidate, you would probably be right: The big guy would win. The further you get away from home, the less you have to work with those people that don't carry the political clout. Consolidation I feel is very detrimental to at least two-thirds of the land mass in the state of Nebraska. As an example, let's take a look at what happened to our rural schools. That was a consolidation issue, wasn't it? We lost them. And there are attempts to consolidate county government, you know, as a money-saving thing. So are we really wanting to do this? Senator McCoy, you mentioned feasibility and effectiveness. Feasibility and effectiveness doesn't go hand in hand. Usually as you start cutting out dollars and cents and saying this is going to save us money, you better take a look and see what it does to your effectiveness. I don't think our NRDs are...you can slash them anyway you want, but you're going to find out it's going to cost you more money for travel. The only thing you might gain...and I hope the managers in the room don't throw apples at me but so you get rid of a manager or two, you know. They're the ones that, you know, are paid the largest salary. But you think

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Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

you can do away with that manager without replacing him with a assistant manager operating two offices? You're going to have to have...just no way that I can see that you want to go here. We have a beautiful structure; let's keep it. Thank you. [LR181]

SENATOR LANGEMEIER: Very good. Are there any questions? Seeing none, thank you very much for your testimony. [LR181]

DEAN JOCHEM: Thank you. [LR181]

SENATOR LANGEMEIER: Further testimony on LR181. Don't be hesitant, come on up. Do you have a green sheet? Okay. Don't forget your green sheet. [LR181]

JUDY RIDENOUR: (Exhibit 12) Judy Ridenour, J-u-d-y R-i-d-e-n-o-u-r, a lifetime resident of Cherry County, Upper Loup NRD board since 1990. I would like to provide testimony in opposition of LR181. The Sandhills region is approximately 19,300 square miles of sand dunes stretching 265 miles across Nebraska and into South Dakota. It is the largest sand dune area in the Western Hemisphere, and is one of the largest grass-stabilized dune regions in the world. We also reside on top of a large groundwater reservoir. The presence of so much groundwater is so close to the surface that it provides a number of aquatic habitats such as lakes, marshes, subirrigated meadows, and constantly flowing streams. The Upper Loup NRD is the third largest NRD within the state. It's comprised of 6,690 square miles, includes all of five counties, and portions of three additional counties. The distance from east to west is 120 miles, from north to south is 78 miles, and the majority of the 4,275,000 acres lies within the Sandhills. Our district is very large in size, sparsely populated, and a considerable distance from a city with a population over 3,000. I feel this is one of the reasons why all of our local entities need to, and do, work closely and well with each other. We have interlocal agreements not only with our local NRCS office but with our local villages as well. If the district were to combine, that would mean that the largest district, the Lower Loup, and the third largest district, the Upper Loup, would be one. I think the mere size of what would be

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Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

one district would be ridiculously hard to manage. Currently all the districts are very effective in the statutory responsibilities; each have been very proactive in their groundwater management practices. I believe the individuals that would suffer the most with a merger would be our constituents. There are several differences between the Upper Loup and the Lower Loup with the main one is land use. Of our 4-plus million acres: 38,975 acres are in lakes and rivers; 4,182,025 are in grassland; and the remaining 54,000--1 percent--is in irrigated cropland. the Lower Loup irrigates over 1 million acres. As you can see from those numbers, our primary conservation needs differ. We deal with range and grazing practices unlike the Lower Loup. We, therefore, have services that are unique to the Upper Loup, one being the control of leafy spurge, which is a perennial weed that reduces grassland, rangeland cattle carrying capacity 50 to 75 percent. The NRD districts have a proven track record that the current system works. And why, I ask, do you want to change a system that other states want to recreate? Thank you. [LR181]

SENATOR LANGEMEIER: Very good. Are there any questions before you run off?
Senator Fischer. [LR181]

JUDY RIDENOUR: Deb. [LR181]

SENATOR FISCHER: (Laugh) Thank you, Mr. Chairman. Judy, nice of you to be here today. As you know, your NRD is one of seven that it's my pleasure to represent in the Legislature. You alluded to the fact that, you know, maybe we were headed down the road to put the Upper Loup in with the Lower Loup. How about going the other way? As you know, part of the Upper Loup was declared fully appropriated in the Niobrara Basin decision. What makes the Upper Loup Basin, the Upper Loup NRD unique from the Niobrara Basin? [LR181]

JUDY RIDENOUR: I think one of our most unique features is we have hardly any irrigation in our area. Our water use is so typically different. [LR181]

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Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

SENATOR FISCHER: Are soil types similar? [LR181]

JUDY RIDENOUR: No. [LR181]

SENATOR FISCHER: How are your rivers and streams fed? [LR181]

JUDY RIDENOUR: As far as I know, they are maintaining because the Loups and the Dismal are the most standard-flowing rivers in the world. They do not change because they're spring fed. [LR181]

SENATOR FISCHER: Okay. Thank you very much. [LR181]

SENATOR LANGEMEIER: Any other questions? Seeing...okay. (Laugh) Thank you. Welcome. [LR181]

DENNIS SCHUETH: (Exhibits 13, 14) It's still morning so I'm going to say, good morning. And thank you, Senator Langemeier, Chairman, other committee members. I'm Dennis Schueth, general manager of the Upper Elkhorn NRD, D-e-n-n-i-s S-c-h-u-e-t-h. The Upper Elkhorn NRD would like to go on record of opposing LR181 with the understanding that we will cooperate in any way to evaluate the effectiveness and efficiencies of the natural resources district system. Senators, this resolution states that the study is to focus on the advantage of having a natural resources district encompass the entirety of a watershed, water basin, river, or other specific area of the state. The Upper and Lower Elkhorn NRD may be two districts that could be considered to merge. However, this new district would be approximately 164 miles from west to east and a maximum of 70 miles from south to north. This concept is a reasonable idea to consider, however, due to the passage of LB962 in 2004, watershed basins will be or have been redefined when a basin is determined to be preliminary or fully appropriated. Due to the Nebraska Department of Natural Resources final fully appropriated

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Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

designation of the Lower Niobrara Basin in 2008, 8 percent of the Upper Elkhorn NRD was included. I am including a map outlining the Niobrara River Basin fully appropriated area and the area affected in the Upper Elkhorn NRD. That is the map that I just handed out to you that looks like this on this side; there's two sides to it. This map also includes the preliminary designation of the Lower Platte River Basin in '08 and the 10/50 area overlap in the Lower Niobrara River Basin designation. This illustration shows that merging NRD boundaries based on just watersheds is difficult and the watershed boundaries will be changed due to LB962 which is based on 10/50 line boundary. The preliminary Lower Platte River Basin designation was determined to be not fully appropriated by DNR in April of 2009, but the effected areas included different watersheds such as the Niobrara and Loup Basins. I am also including a map that shows the boundary of the reversed Lower Platte River Basin designation and I ask the question: Is this the purpose statement's intent to make this one NRD? And I just want you to flip the chart over, and the area that was labeled under the Lower Platte River Basin was the purple area. So if you want to look at a watershed that could be conceived as one NRD because we're managing that whole basin for one water use for that whole area, so it becomes very complex. I want to thank Senator Langemeier and Senator Carlson for making themselves available at the NARD fall conference and discussing the interim studies. Senator Langemeier stated that this resolution is an opportunity for the NRDs to highlight the NRD system. The Upper Elkhorn NRD has been proactive in the responsibilities to evaluate the effectiveness and efficiencies of their actions. Through the authorities granted by the Nebraska Ground Water Management and Protection Act, the Upper Elkhorn NRD labeled the entire district as a water quality management area for nitrate-nitrogen. This designation occurred in 1997, and required 1,600 operators applying more than 50 pounds of nitrogen to become licensed through the NRD certification class as well as sample their irrigation wells for nitrate-nitrogen every four years as part of their obligation. This certification class has given the NRD an opportunity to discuss best management practices relating to irrigation and nitrogen management. In 2003, two areas encompassing approximately 69,000 acres within the district were labeled as Phase II areas. This requires

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Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

cooperators to annually submit additional data and irrigation water nitrate results to our NRD. The Upper Elkhorn NRD will be expanding the Phase II designation hopefully in the next year. This area will include approximately 430,000 additional acres encompassing 26 percent of the district. The Upper Elkhorn NRD is very frugal in managing taxpayer dollars while achieving the responsibility of the NRDs. The Upper Elkhorn NRD has looked at other funding sources to reduce reliance on property taxes by applying for and receiving grants from state or federal funding sources. The Upper Elkhorn NRD applied and received funding from the Nebraska Department of Quality through their administration of 319 funds provided by the federal government through the Clean Water Act. Currently, we receive funds from the Environmental Trust which is made available to cooperators to install flowmeters, replace or repair septic systems or contaminated domestic water supplies. We also receive 319 funding, and those dollars are also available to cooperators for best management practices relating to irrigation and nutrient management in the East Branch Verdigris Creek Watershed, which is a Class A cold water stream. These types of grants have been awarded in the past and utilized in other areas of the district. The Upper Elkhorn NRD actively continues to work with, develop partnerships with the following organizations: Nebraska Game and Parks Commission, United States Fish and Wildlife Service, UNL County Extension, UNL Conservation Survey Division, UNL Water Center, United States Geological Service, High Plains Climatic Center, the USDA Natural Resources Conservation Service, and other NRDs to better manage and protect natural resources locally and collectively for the state of Nebraska. A lot of the data that is collected through these partnerships are currently being utilized at the NRD and state level in determining the management of hydrologically connected water between ground and surface water. The Upper Elkhorn NRD partnered with eight other NRDs and is cooperating with the state and federal agencies to develop models, such as the Elkhorn-Loup Model, to determine this type of ground and surface water relationship. This model is at its infancy and additional data collection is needed and the studies are moving forward to better manage water for existing uses and future needs. Individually an NRD could not afford to do such a study, but collectively it is possible and we are hopeful the model will become more reliable as

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Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

data is collected. Senators, each district is governed by an elected board of directors who have a concern for protecting natural resources, protecting lives, and protecting the future of those resources. However, if mergers occur, we need to remember that the physical characteristics of these environments change dramatically in soil types, precipitation regimes, and population dynamics from district to district. Managing those resources across a bigger district becomes very difficult and reduces the equality of local representation. Thank you for the opportunity to testify on LR181. [LR181]

SENATOR LANGEMEIER: Very good. Are there any questions? Senator Fischer. [LR181]

SENATOR FISCHER: Thank you, Chairman Langemeier. Hi, Dennis. [LR181]

DENNIS SCHUETH: Hi. [LR181]

SENATOR FISCHER: How are you doing? [LR181]

DENNIS SCHUETH: Good. [LR181]

SENATOR FISCHER: Another one of my NRDs. I'm going to follow up on what I asked Judy, the previous testifier. Part of your district is in the fully appropriated status for the Niobrara Basin. As you pointed out in your map, which really I think is striking, if we go by not just basins but drainage areas, what that district may look like, what makes the Upper Elkhorn unique? Why do you need a district called the Upper Elkhorn with those boundaries? You've already been kind of merged into a Niobrara one. You're going to go to the Lower Platte South maybe by drainage area, so why are you unique? [LR181]

DENNIS SCHUETH: If you look at the map, (1) the Elkhorn River starts...the headwaters of the Elkhorn River starts in our district right west of Bassett. It's primarily groundwater fed and it's not from the Niobrara River system per se. And so we're

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Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

starting...it's that merge of right there where there's a difference between the Niobrara and the Elkhorn River system into the Platte River System. And then the variances across our district, like you asked Judy, when you start looking at the soils in the western part of our district, Valentine sand properly noted, Valentine, Nebraska, but and then you go to the eastern side, we have a lot of clays and heavier soils there. So right there on soil characteristics is very diverse. In the northern part of our Antelope...in our district of Antelope County, the Ogallala aquifer is no longer there. The top two townships are completely different; it's getting its water supply from a different aquifer system. So I think we need to stand alone because of those differences right there alone. We have saturated thickness of our groundwater table of about 600 feet in Rock County to the eastern side in that northern portion of our district of about 100 to 200 feet. So there's a lot of variances in just static water levels, and so you can't really necessarily manage one side of our district the same as we're going to have to on the eastern border. So I think that's why we need to stand alone, and for local representation too. [LR181]

SENATOR FISCHER: Thank you. [LR181]

SENATOR LANGEMEIER: Any other questions? Seeing none, thank you very much for your testimony. Go ahead. We're ready when you are. [LR181]

DUANE FILSINGER: (Exhibits 15, 16) Thank you. Good morning, Senator Langemeier and fellow senators on the Natural Resources Committee and guests. My name is Duane, D-u-a-n-e, Filsinger, F-i-l-s-i-n-g-e-r. I'm currently the general manager of the Lower Niobrara Natural Resources District, and I shall testify today in opposition to any reductions or eliminations of the NRDs in the state of Nebraska. I've got two handouts which are coming your way and, first of all, the first one is simply a small bulletin. I see you all have the larger booklet on the NRDs. But I just wanted to point out, the Lower Niobrara is top here in the white/brown area. And this will help you if you're identifying the different NRDs that testified today. And also there's a sheet on "Know Your NRDs,"

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Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

and this is what we do and everything for the past year. And then following through with that, the NRDs were created by law in 1972 and just like our Unicameral Legislature, we are very unique to the state of Nebraska. We're a local government with our directors elected by local voters. Our mission is to protect the future of our natural resources through responsible management. Water issues are becoming very, very important to the economy of our state. Management of these resources is becoming more critical each year. In December of 2008, the Lower Platte area was declared fully appropriated. The Lower Niobrara and eight other NRDs played a critical role in reviewing the modeling data with DNR. We were able to conclude through the use of sound science and review of the technical data that the decision to fully appropriate the area should be reversed. We managed the West Knox Rural Water System which provides water to the city of Verdigre and surrounding areas. We will be expanding the system by drilling two additional wells. The cities of Creighton, Center, and Niobrara, and 100 rural customers in the Knox County area have had extremely high nitrate issues and mineral issues. With the addition of these two wells, we will be able to supply water to...we'll be able to supply them with good quality water. Teaching youth how to be excellent stewards of the land is a very important goal also of the Lower Niobrara. We sponsor youth events each year. They are the natural resources festival for fifth graders, three eighth-grade conservation days, county government days for juniors, area land and range judging contest for 9th through 12th graders, and the wonderful world of water for high school students. It is important to begin this process of hands-on education at our local level. Currently, the Lower Niobrara is administrating several water quality programs. We monitor the water levels in 76 testing wells, we do chemigation inspections on 600 irrigation wells, we issue 1,100 chemigation permits, we offer free nitrate and bacteria testing along with ultrasonic flowmeter checks, and we test 475 monitoring wells for nitrates. The Lower Niobrara has planted over 1 million trees during the past 20 years to help with livestock and homestead protection, prevention of soil erosion, as living snow fences, and creating wildlife habitat. We also have interlocal agreements with many of our partners as we combine our efforts on managing Nebraska's resources. These partners include NRCS and USGS on the federal level, DNR and Nebraska Game and

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Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

Parks on the state level. The Lower Niobrara NRD takes pride in being the local government entity that efficiently manages our resources for the well-being of the people. We view the interim study provided for in the legislative study LR181 as an opportunity to show our elected officials and the general public how effective the Lower Niobrara NRD has been and will continue to be in protecting the natural resources of Nebraska. I thank you very much for your time. Are there any questions? [LR181]

SENATOR LANGEMEIER: Are there any questions? Senator Carlson. [LR181]

SENATOR CARLSON: Senator Langemeier. Dennis, I want to ask you before Senator Hansen does. With all this tree planting, how many Russian olives did you plant within two miles of a stream? (Laughter) [LR181]

DUANE FILSINGER: We do plant a few Russian olives, although I will say that they're kind of on our list as invasive species. We don't seem to have quite the evasiveness in them that they do west of us. So we still plant a few, but it's not my favorite tree to plant, I'll make an honest statement. [LR181]

SENATOR CARLSON: Thank you. [LR181]

SENATOR LANGEMEIER: I'm going to ask you one question just because I think this is a very interesting phenomena. In the Lower Niobrara as we look at the map that the previous introducer gave us with the preliminary designation of the Lower Platte and Loups, it's all up the 10/50 line, and so as you can see there's the little fingers that go out. But in your district, you have the Niobrara River runs through your district and you have a white nonfully appropriated finger along the river, yet how...normally the fully appropriated starts at the river and works out everywhere else in this state. [LR181]

SENATOR FISCHER: True. [LR181]

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Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

SENATOR LANGEMEIER: But in your district it seems like it's working the other way. I've always thought that was kind of interesting. [LR181]

DUANE FILSINGER: Well, I have a real simple answer for that, sir. We have no water in that area. (Laughter) There's no wells. [LR181]

SENATOR LANGEMEIER: That's not the first time I've gotten that answer, so. I thought I'd ask again. [LR181]

DUANE FILSINGER: No, but that, again, was unique to me when we received the fully appropriated designation, and so obviously doing some research. And we sit in a situation where the Niobrara River...and we're probably the only NRD very unique in this where the Niobrara River over periods of thousands of years has cut a path through a district, and the Niobrara River is actually on the average about 150 to 170 feet below the land surface because it's cut in and, consequently, most of our wells are 50 to 70 feet deep. So we have...you know, being new and different and whatever I had the question of, how can we be fully appropriated or how are we affecting the surface water if our groundwater is 100 feet higher than the surface water? But it comes down to the realization that that is true. And close to the river we have kind of a barrier or block where there's no water and there's no wells. We run a survey and there's only five irrigation wells or five wells within a mile of the Niobrara River that runs through our district. Our water tends to be 5 to 20 miles away from it, but where it comes up that we have effect on the surface water is that fact that as we irrigate, it does have some effect on the streams that flow through that area to the Niobrara River. And therefore if the DNR felt that the fully appropriated label should go on due to the fact that we had influence on some of the streams that flowed into the Niobrara River. [LR181]

SENATOR LANGEMEIER: So clarification, when you say you have no water, you're talking about groundwater... [LR181]

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Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

DUANE FILSINGER: Have no groundwater, correct. Yes. [LR181]

SENATOR LANGEMEIER: ...not the water within the stream? There's water within the stream. Okay. Are there any other questions? Seeing none, thank you very much. [LR181]

DUANE FILSINGER: Thank you very much. [LR181]

SENATOR LANGEMEIER: You did a great job. It's always been something fascinating to me, that. Mr. Pollock, how are you? [LR181]

ANDY POLLOCK: I'm fine, Senator. How are you? [LR181]

SENATOR LANGEMEIER: Doing good. Ready when you are. [LR181]

ANDY POLLOCK: Thank you, Chairman Langemeier and other senators, Senator Fischer in particular. It's good to be up in Valentine. You know how much I appreciate and love this area. My name is Andy Pollock and the spelling is A-n-d-y P-o-l-l-o-c-k. I am here on behalf of a group called the Papillion Valley Preservation Association, as I've been before this committee before on their behalf, about 500 members, mainly rural landowners in Washington and rural Douglas County. So we're a little ways away from home, if you will. Principally the concern of this group has been within the borders of the Papillion Missouri River NRD. We are not opposed to the notion of realignment, but I would add that we believe that if there's realignment, it should be realignment of responsibilities instead of necessarily a realignment of borders. We also support the notion of local control no matter how realignment may look. I want to just briefly touch on a couple suggestions for improvements that we might offer to this committee for dialogue purposes and for discussion purposes going forward. First, we believe that realignment might be helpful in coordinating the management of the natural resources of the state of Nebraska. As you all know, coordination is important. But, as I'll say

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Rough Draft

Natural Resources Committee
October 05, 2009

again, we believe that it's also essential to maintain local control. We, obviously, need as a state to be tuned into local issues and protect resources which happen to be mainly local in nature. We believe coordination, though, is necessary for consistency, for consistent and correct application of the law whether it's eminent domain or whether it's water law or other natural resources law. We also believe that consistency is needed because decisions and projects, as we've heard a lot about today, effect entire basins and, in fact, Senator Carlson has pointed out several times here, effect the entire state. It's also important, coordination is, because decisions made now, projects undertaken now, as we've seen in the Pappio-Missouri NRD, effect the future of the people in those districts. We also believe that coordination with cities, with counties, with public power districts, with other governmental agencies is just paramount to making sure that our natural resources are managed wisely. One idea that we have in terms of achieving that consistency would be to create perhaps through some state entity--Department of Natural Resources, Department of Agriculture, whatever may be the most appropriate--a clearinghouse for information for resources for the natural resources districts. We believe, as I've heard said... [LR181]

SENATOR LANGEMEIER: I've got to stop you. Slide the mike away from you a little bit. [LR181]

ANDY POLLOCK: Am I too close? [LR181]

SENATOR LANGEMEIER: You're screwing up our recording system. [LR181]

ANDY POLLOCK: Is that the pop? I'm sorry, Barb. [LR181]

SENATOR LANGEMEIER: Okay go ahead. (Laugh) [LR181]

ANDY POLLOCK: Thank you. We believe that a clearinghouse for information might be helpful to making sure that progressive, proactive, forward-looking measures are taken

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Rough Draft

Natural Resources Committee
October 05, 2009

to manage our natural resources. We also believe that that sort of central clearinghouse might be helpful for providing the NRD's financial expertise for having uniform bidding standards and standards of operation for best practices with respect to managing our resources, even perhaps to engage in bulk purchasing of large equipment. Just one idea. I would simply close by, it's our opinion that we really need to get back to our roots with respect to the natural resources districts in particular, and protect the natural resources for agricultural purposes. That should be the paramount concern. Like I said at the beginning, we would welcome the opportunity to take part in a continued discussion with this committee and with the other people who have appeared before you today. And that concludes my remarks. [LR181]

SENATOR LANGEMEIER: Very good. Are there any questions for Mr. Pollock? Senator Fischer. [LR181]

SENATOR FISCHER: Thank you, Chairman Langemeier. Thank you, Mr. Pollock, for being here. I'm happy you love Valentine so much and the Sandhills. You began by saying that you welcome the study and you view it as an opportunity to look at the realignment of responsibilities for NRDs. Give me specific examples of what you're talking about there? What responsibilities? What do you want to change? [LR181]

ANDY POLLOCK: Well, kind of like I mentioned, Senator Fischer, with respect to the...not consolidation, but offering of a central clearinghouse of resources whether it's legal expertise, financial expertise. [LR181]

SENATOR FISCHER: Well, but that's not responsibilities. They can do that already. They can do interlocal agreements as any political subdivision can do. You said realignment of responsibilities. What responsibilities do the NRDs have now that you would like to realign? [LR181]

ANDY POLLOCK: Perhaps realignment...I'm picking up language that was in the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

legislative resolution itself, perhaps there's better language that might be applied to that. What we're suggesting is more of a consolidation not of the local control that's exercised, but rather of potential resources for those NRDs so that there would be some potential state agency that would have legal resources, that would have financial resources, that would have resources, for example, like I mentioned in bidding processes. I think that's something that is, as I understand it, variable. It's something that changes or you see differences in the way that other NRDs handle it from district to district. [LR181]

SENATOR FISCHER: Maybe I'm not following you here or did I just hear you suggest a new state agency? [LR181]

ANDY POLLOCK: No. [LR181]

SENATOR FISCHER: Or some current state agency, as everybody up here goes, what? No, but or some current state agency that would take over legal concerns that NRDs have? Do you want to move some of that to the state level? [LR181]

ANDY POLLOCK: I don't know that it's necessarily moving and we are certainly not on record advocating a new state agency. [LR181]

SENATOR FISCHER: Bless you. [LR181]

ANDY POLLOCK: Thank you. (Laugh) I look to Department of Natural Resources, Department of Agriculture as possible agencies that have legal staff that may offer resources and support to the legal counsel that serve the NRDs today, and it would be supplementary to that for the sake, like I said before, of providing some consistency across the board. [LR181]

SENATOR FISCHER: Have you found examples where there's been inconsistencies

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Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

within the 23? [LR181]

ANDY POLLOCK: I can't point you to specific examples. I could certainly try to come up with some. I think there's some issues and I don't want to rehash prior fights, but there's been some issues where our group has had concerns with the Papio-Missouri River NRD and we see other NRDs doing things differently. And so in that regard it would be...there would be some differences. [LR181]

SENATOR FISCHER: You also made the comment that NRDs need to get back to their original purpose which was to protect ag interests. Is that stated in statute that that's their priority of charge that they have? [LR181]

ANDY POLLOCK: I don't believe it is stated. I think they have a number of purposes for which they're created. [LR181]

SENATOR FISCHER: I think they have 8, 10 that are in statute...15, oh, 13 that are stated in statute. I didn't remember that one was to protect ag interest. And while I may be empathetic to that, I'm wondering where you pulled that one from. [LR181]

ANDY POLLOCK: I'm speaking in terms of... [LR181]

SENATOR FISCHER: This is what happens when lobbyists show up at these things. [LR181]

ANDY POLLOCK: (Laugh) I'm speaking in particular of things like irrigation, flood control, issues that effect agriculture, frankly, issues that effect urban areas, too, as we've seen in the Papio NRD. It's to perhaps move a little bit away from the notion of trails and recreation and focus more on the use of our natural resources. That's the gist of my comment there. [LR181]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

SENATOR FISCHER: Okay. Thank you very much. [LR181]

ANDY POLLOCK: You're welcome. [LR181]

SENATOR LANGEMEIER: Senator Carlson. [LR181]

SENATOR CARLSON: Senator Langemeier. Andy, in listening and I jotted a couple of notes down, as you started to speak, I wrote a little note that said you're semi-supporting realignment. And then I put a note that you...local control is very important. And so I kind of got the idea maybe most of us here think in terms of realignment it means consolidating, but maybe you mean adding in order to have better local control. [LR181]

ANDY POLLOCK: I think what I mean, and this goes to the same issue that Senator Fischer raised, we wouldn't support consolidation of the NRDs themselves. We would support creation of a clearinghouse central repository for information for resources for the NRDs, utilizing existing state agencies like the Department of Natural Resources, Department of Ag, whatever you would deem appropriate, but really look to those agencies which have expertise in this area, as do the NRDs, to help coordinate efforts and make sure efforts are consistent without consolidating any of the NRDs together, without folding them together, without eliminating any of the NRDs, maintaining local control that they provide but also have an agency that coordinates the efforts. And I think we heard a lot of that with respect to Senator Langemeier's legislative resolution. How do we maintain local control yet coordinate that somehow, recognizing these decisions, these projects effect multi-basins, effect the entire state? There just needs to be some coordination. What is the right place to do that? I don't have a magic answer here, but I think that we recognize the need for some coordinated efforts too. [LR181]

SENATOR CARLSON: Okay. Thank you. [LR181]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

SENATOR LANGEMEIER: Seeing no other questions, thank you very much for your testimony. [LR181]

ANDY POLLOCK: Thank you very much. [LR181]

SENATOR LANGEMEIER: Our next testifier. Welcome. [LR181]

DAVID KADLECEK: Thank you, senators. I guess I should say it, good afternoon. The morning done passed. I'm David Kadlecek, D-a-v-i-d K-a-d-l-e-c-e-k. I'm a member of the Upper Niobrara White NRD board of directors, been serving on there about six years. I farm and ranch about ten miles north of Hay Springs and I might defer a little bit to Senator Fischer. This isn't quite western Nebraska yet, northern, yeah, but we've got to go a little bit further, got to go another 150 miles. [LR181]

SENATOR FISCHER: (Laughter) You know, they always forget the Panhandle, don't they? [LR181]

DAVID KADLECEK: That's right. You know, we're kind of left out. So anyway, that's where we're from. [LR181]

SENATOR LANGEMEIER: She has pointed that out every time somebody has said that. [LR181]

DAVID KADLECEK: I know. I spent eight years as Sheridan County Commissioner. Like I said, six years currently in the NRD board of directors. A lot of people have talked about a little bit of the history of the NRD and I'm going to very briefly. You know, they were established in 1972 by LB1357, following subsequent legislation that strengthened the NRDs, particularly on groundwater management. The 23 NRDs that were established we basically set on with the watershed guidelines with the overall mission to...Deb said about eight things in the mission statement which is true...it may be more

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Rough Draft

Natural Resources Committee
October 05, 2009

than that. But, anyway, basically protecting lives, property, and the future, you know, of the areas. That future involves education of adults, and I think more particularly of our youth, of the conservation and water management and treatment of our natural resources. The NRDs are public entities that have property taxing authority across the state. In 2008, actually lowered the taxes by about 2.1 percent where other taxing entities actually increased an average of 5.5 percent. So I think we've been doing reasonably well on financial management as far as, you know, all the respective entities across the state. There's a lot of functions of the NRDs and I'm going to go through some rather hurriedly because we've heard a lot of them already today. But in our particular area, we have a moratorium on high-capacity water wells. We have allocations in two areas of 16 inches per year or 64 inches over a four-year period. Some of that is probably going to go down when we see what our water tables are doing, and our goal is to try to decrease that declining trend, but it may take some time to do it. I know it doesn't happen overnight. Do a lot of water quality sampling. Manage a chemigation program of testing and educating of irrigators. That's a real important part of education in the chemigation program. We have an active no-till program and we're getting more and more producers wanting to do no-till, which has a bottom line of conserving water. And we do a well head protection program. We're involved in hazard mitigation planning. We have a timber management program in the Pine Ridge, which is only unique primarily to the Upper Niobrara, some here in the Middle Niobrara NRDs. We work with the Nebraska State Foresters, U.S. Forest Service in programs of logging fuels reduction to try to reduce catastrophic forest fires, plus providing the fuel for Chadron State College at Chadron because they use wood fuel--which a lot of people don't realize--to heat and cool the buildings on the Chadron State campus. We do an extensive PR program with newsletters to producers as well as environmental education programs in various schools. We've got to train, teach the younger kids; there's no two ways about it. That program has to continue. In our office in Chadron, we house not only our NRD office, but we also provide office for the Nebraska State Forester, also for a wildlife biologist of Nebraska Game and Parks, and we also have a DEQ employee who is involved in water quality monitoring. We also monitor...you know, have the

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Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

regular SWCP conservation programs of terraces, dams, water lines, you know, all of those types of projects go through our office. Those mean meeting with a lot of people on a day-to-day basis, with farmers, ranchers, local businessmen, news media. Our staff meets with those people all the time. Offices need to be accessible and not 200 hundred miles away. If you look at the Niobrara Basin in all the consolidation, if they have one probation, that office would probably be here in Valentine. We're going to put on about 300 miles today coming down to this hearing. We've got board members currently that live another 70 miles further than that. So you can see that the logistics of people going, plus, for board members is one thing, but accessibility for the private people, businessmen, and producers. It would be a serious burden on our people that participate in the various programs. We left at 5:00 this morning. I hope some time we get home tonight some time. But, anyway, this...people that would have to drive that far to come to a local office, they're not coming. That's pure and simple. It's too far away and so a lot of it's going to be by telephone, but a lot of it needs to be one-on-one, particularly when we're in a situation of regulatory function where we're reading meters--chemigation programs. You need to be able to meet with those people and talk to them on a one-on-one. You know, we lost a good friend here over the last few years; it's called common sense. And I think that we need to look at this LR181 with a common-sense approach. I think the NRD system is not broken--I heard that a little while ago--let's not fix it if it's not broken. So I guess in closing I would say, let's leave the districts as they are, and I don't believe any legislation should come out of the resolution to go forward. Thank you. [LR181]

SENATOR LANGEMEIER: Very good. Thank you. Are there any questions? [LR181]

DAVID KADLECEK: No hard ones, I'm only a board member. (Laughter) [LR181]

SENATOR LANGEMEIER: They're going to let you off the hook. [LR181]

DAVID KADLECEK: Good. Thank you. [LR181]

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Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

SENATOR LANGEMEIER: Thank you very much for your testimony. Further testimony on LR181. Don't be shy. We've got on on-deck chair so...welcome. [LR181]

SHAWN MELOTZ: Hi. Good afternoon and thank you to Senator Langemeier. I was going to thank Senator Fischer for allowing me to see her beautiful part of the country, and thank you to Senator McCoy for bringing this issue to light. I understand that the study is to review the possible alignment and...Shawn Melotz, S-h-a-w-n M-e-l-o-t-z. While I understand the study is directed towards reviewing alignment and possible consolidation of NRDs, I'm opposed to consolidation of NRDs, mostly because of the situation in our area. My family has farmed in the Papio NRD for over four generations. We've had land in the pioneer program that we farm and we're very proud of it. And we work very closely with the NRDs. We put in over 26 miles of terraces. However, recently this NRD, our NRD, because of its metropolitan makeup, has moved away from the agricultural sense and more towards working with nonag, commercial partners, so to speak. I believe Mr. Pollock addressed a realignment of responsibilities. I would give an example under that with the recreational aspects of NRDs. I feel that some of those could be shifted over to Game and Parks rather than having two separate entities administer a recreational project, such as trails as a great example. Also, a lot of the municipalities do trails as well. So I think there could be a lesser government through a realignment of responsibilities. I think local control is very important that, you know, so you know your issues and know what factors are dealt with your area of interest. I'm concerned that some of the non-resource direction, non-natural resource direction of the metropolitan areas to some extent perhaps allows for the continuation of their own government. For example, the Papio has increased its budget over the last three years. In fact, it's over \$64 million this current year of what their budgeted expenditures are, and I'm sure that's quite a bit more than most other NRDs throughout this state. Therefore, I ask this committee to focus the study towards the realignment of responsibilities of NRDs rather than the realignment and consolidation of their boundaries. Thank you. [LR181]

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Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

SENATOR LANGEMEIER: Very good. Are there any questions? Seeing none, thank you very much. Come on up. [LR181]

KEN PEITZMEIER: (Exhibit 17) Good afternoon. My name is Ken Peitzmeier, that's K-e-n P-e-i-t-z-m-e-i-e-r. Good afternoon, again, Senator Langemeier and members of the Natural Resources Committee. I live in Norfolk, Nebraska, and am currently a director on the Lower Elkhorn NRD. I am testifying today in opposition to LR181. From time to time, the Nebraska Legislature conducts appropriate reviews of government functions. A recent example is legislative resolution LR181 introduced by State Senator Beau McCoy of Omaha calling for an interim study to review the role of Nebraska's 23 natural resources districts, the NRDs, in managing Nebraska's natural resources. Our Lower Elkhorn Natural Resources District welcomes LR181 and the opportunity to answer questions from the Natural Resources Committee as well as present our record of accomplishments in protecting lives, protecting property, and protecting the future of our natural resources. We strive to be more efficient and serve our constituents as part of our mission as granted by the Legislature in 1972. We will always answer any question or questions the public may request. As part of our mission to protect lives and property, the Lower Elkhorn NRD has developed a number of projects critical to the safety of our residents and their property. These include: flood control projects, water quality programs, soil conservation programs, and developing recreational opportunities including trails to promote the health and well-being of our citizens. The LENRD has constructed eight major flood control structures and is working with several communities on additional flood protection structures. Nebraska NRDs are unique in the nation. Like our Unicameral Legislature, Nebraska is the only state with an NRD structure and many other states are very envious. The Legislature created the NRDs with the express purpose of creating districts where local control and local citizen output and input would be highly valued. The current structure provides that opportunity for local participation and direction for resource management. One of our constituents compared an attempt to eliminate local NRDs to the current attempt by some in Congress to mandate that

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Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

healthcare decisions, that they be made at the national level instead of by individuals and their doctors. I might not take the comparison that far, but Nebraskans value their local government and feel that smaller, local government entities are often more responsive than state and federal ones. Nebraska's NRDs are proud to do our part in finding spending efficiencies. As part of the responsibility of local control, Nebraska NRDs are funded through a small property tax levy which is less than 2 percent of all property taxes. According to reports by the Nebraska Department of Revenue, the NRDs were the only political subdivision in 2008 to reduce property taxes--a decrease of over \$1.1 million from 2007 levels. On average, other government units raised their property tax an average of 5.5 percent. Because water is so important to the economy of our state--whether for agriculture, manufacturing, or for domestic use--the NRD's management of that resource has gained more attention in recent years. The LENRD and other NRDs played a crucial role in reversing a decision by the state of Nebraska to declare the Lower Platte River Basin fully appropriated, which would have halted any new water uses for agriculture or manufacturing in a huge geographic area of the state, including the LENRD. By offering sound science and a review of the technical data, we were able to convince the state that their initial decision should be reversed. We are now working closely with the state to monitor the groundwater situation to make sure that valuable resource is responsibly regulated, while still providing opportunities for reasonable economic growth. Nebraska's natural resources districts play a vital role in the checks and balances of water regulation in our state. We take that responsibility seriously and are diligent in making sure our water resources--and all natural resources--are used wisely and effectively and are protected for future use by the future generations of Nebraskans. We view the interim study provided for in LR181 as an opportunity to show our elected officials and the public how effective NRDs have been and will continue to be in protecting the lives and property of our constituents and the future of our natural resources that are so important to the quality of life we enjoy in Nebraska. Thank you. [LR181]

SENATOR LANGEMEIER: Very good. Are there any questions for Ken? [LR181]

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Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

SENATOR HANSEN: Could I ask one? [LR181]

SENATOR LANGEMEIER: Senator Hansen. [LR181]

SENATOR HANSEN: Thank you, Chairman. Ken, according to the map--and we've had a lot of maps passed out today--the Lower Elkhorn and the Upper Elkhorn, do you work together with the two NRDs, the Lower with the Upper as a basin? [LR181]

KEN PEITZMEIER: Yes, we do. We're very aware of what each other is trying to accomplish for the betterment of both NRDs and the basin in general. [LR181]

SENATOR HANSEN: When we look at the map in Senator McCoy's idea where you would put these two river basins together, they're not much bigger than some of the NRDs now. Do you...give me a couple of good reasons why you shouldn't be... [LR181]

KEN PEITZMEIER: Well, for one instance, the number of irrigation wells at the Lower Elkhorn is quite large compared to what the Upper Elkhorn has. In fact, to quote some approximate numbers, I believe we have roughly 5,300 irrigation wells in our district, groundwater, versus roughly 800 I believe in the Upper Elkhorn. [LR181]

STAN STAAB: It's a few more than that, but I'm not sure on that number. [LR181]

KEN PEITZMEIER: Approximately. [LR181]

SENATOR HANSEN: Okay. Thank you. [LR181]

KEN PEITZMEIER: So our issues are much the same over the geographic areas. [LR181]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

SENATOR HANSEN: Okay. Thank you. [LR181]

SENATOR LANGEMEIER: Are there any other questions? As we carpooled out, we stopped at Leigh and looked at your new facility that's waiting to be filled at the Leigh Dam. [LR181]

KEN PEITZMEIER: I salute you for that. I...perhaps Stan Staab, our general manager, wishes to touch on that further. But that was a long time in coming and it's going very, very well. Thank you. [LR181]

SENATOR LANGEMEIER: Thank you very much for your testimony. Mr. Staab, welcome. [LR181]

STAN STAAB: (Exhibit 18) Thank you, Chairman. Good day, Senator Langemeier and members of the Natural Resources Committee. My name is Stan Staab, S-t-a-n S-t-a-a-b. I am general manager for the Lower Elkhorn Natural Resources District based in Norfolk. I will be testifying today in a neutral position regarding LR181 while describing some of our programs in detail. I hope that all members of your committee received our NRD packet that was sent several days ago, that you've had sufficient time in your busy schedules to review the letter that was included with that with the bullets, including our annual, long-range plan and several of our brochures highlighting our projects and programs that were sent in the packet, sent to your offices. I appreciate your interest in our NRD and all the NRDs across the state. The packet letter attempted to highlight many current projects and programs and summarize their purpose and status. While I do not intend to repeat any of these bullets today, but rather will expound on the relationships with various federal, state, and local agencies and entities that we have established over the years producing positive results. I will also attempt to explain the critical link between what we call "joint public agency and interlocal agreement" that's been mentioned earlier today, but it does provide a legal bond between federal, state, and local agencies. This link is critical. It is determined by the Interlocal

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Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

Cooperation Act, state statute 13-513, that was passed in 1994 by the Legislature and is by far the most important and underrated legal agreement that all NRDs us to complete projects. Since the NRDs began their operation in 1972, our NRD has a long and successful history of planning and completing many, many programs and projects to improve the lives and the economic well-being of our citizens. The district has worked within the 12 original areas of natural resources management established by the Legislature to address local soil and water conservation problems. The board of directors has determined very early that soil erosion, flood control, and striving to improve our groundwater quality were our top priorities. These general issues established our initial focus. For example, major NRD projects such as flood control structures in the forms of dams and levees originated in direct request--and I stress that--direct request from the cities and county officials and villages as they were hammered for years and years and years of flooding, and not just in our district but across other parts of the state as well. Certainly in our district we have flooding as the number one problem. It is a constant problem and challenge in eastern Nebraska. All eastern NRDs today are addressing complex flood management problems. With our communities, there was some areas, some cases that I mentioned going back to the 1940s, the fifties, and the sixties, long before NRDs became operational. Land rights and funding remain the biggest hurdles to complete a project. Time is another huge factor. It is not uncommon for an NRD project to last eight to ten years before completion or longer. Some projects go way beyond that. It obviously requires a very strong commitment from local NRD boards and staff to see it through. And sometimes turnover in boards and staff that we endure throughout the lives of these projects. The project building process has become very complex in the last 20 years because of increased pressure and scrutiny from federal agencies with powerful environmental attitudes regarding water and a general anti-dam sentiment. A recent example is the length of time our NRD consumed to build...to obtain a 404 construction permit, over two and a half years, from the U.S. Army Corps of Engineers for what is now called the Leigh Dam, now called the Maple Creek Recreational Area. We strive to build positive working relationships with all agencies which in some cases require years to

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Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

accomplish. We will continue to pursue this effort. Lower Elkhorn NRD has worked with many agencies and entities over the years building a wide variety of projects for many of the 49 cities and villages within our boundaries. Those projects may involve funding support and technical advice from other agencies such as the Nebraska Forest Service, USDA, NRCS, Nebraska Game and Parks Commission, and many others. Urban Forestry and tree planting improvements, park and recreation updates, improving public recreation plans are much appreciated by the small communities, simply do not have the staff to do those things or the time. Recreational trails have been developed and funded in ten of our communities with several others now in early planning stages. Protecting municipal water supply is also a top priority and the NRD has assisted several communities by helping develop wellhead protection, providing public water cost share for test wells, helping locate and monitoring well sites, and providing sampling in wells for small towns on a limited basis. As mentioned before, the Interlocal Cooperation Act offers a vehicle for legal agreements between NRD and the various agencies while establishing a methods to leverage funds and complete projects. In your packet today, I handed out which is the task report from July 1, 2008, to June 30 of '09, we currently have 89 conservation partners that we're working with on our interlocal agreement, illustrates the diversity of our programs and projects. The map also references each interlocal agreement by community. This is a sample of today's work, scores of past projects were managed in the same fashion. We also strive for a win-win situation. It's not easy to do that, but we try very much and our track record does bear it out. I thank you for the opportunity to testify. And glad I didn't vaporize, Chris, when the red light came on, so appreciate that. (Laughter) Certainly try to answer any questions. [LR181]

SENATOR LANGEMEIER: That's the blue light. That's that blue light on there for the vaporization. [LR181]

STAN STAAB: That's kind of scary. [LR181]

SENATOR LANGEMEIER: Any questions? Seeing no questions, you've been let off the

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Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

hook easy. [LR181]

STAN STAAB: Thank you. Thank you very much. [LR181]

SENATOR LANGEMEIER: Joe is back. [LR181]

JOE ANDERJASKA: I'm back again. Sorry. [LR181]

SENATOR LANGEMEIER: No. Look forward to it. Ready when you are. [LR181]

JOE ANDERJASKA: I thank you for your time and for putting up with me, so. My name is Joe Anderjaska, J-o-e, Anderjaska, A-n-d-e-r-j-a-s-k-a. As I stated before, I am a director in my third term on the Middle Republican NRD, and I am our board rep on the NARD where I am vice president. While some possible improvements and efficiency may be achieved, this testimony should be considered as being opposed to reductions in the number of districts. This issue can be very emotional when it appears that it is being considered as some sort of punishment for the perceived actions or inactions of some district boards. It has been said that boards are dominated by farmers or ranchers, yet who better to conserve, protect, develop, and manage the natural resources of the state than the very people whose livelihood depends upon the wise utilization of our resources? District boards are made up of people from all walks of life. Sure, there are farmers and ranchers, but there are also doctors, lawyers, Main Street businessmen, teachers, and men and women from all walks of life, men and women who in some districts only receive a small per diem for their service and ask no more than the support of the state that keeps adding to their expanding areas of responsibility. My district has had three sets of father/son pairs who have served on the board. We have also had a state senator serve on our board. Many districts have board members with over 30 years of service. Board members serve on power district boards, school boards, village boards, and city councils, men and women dedicated to service in their communities because they know the importance of local control, men and

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Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

women who have condemned their friends and neighbors for land rights because of the importance of floodwater control, men and women who have imposed regulations on their neighbors for the use of water because of the importance of maintaining this resource for future generations. The NRD movement into the groundwater management has been ongoing for almost 35 years. The Republican Basin has had many firsts with regard to groundwater management: the first control area, the first groundwater management plan, the first and second special protection areas, the first moratorium, the first temporary suspension, the first four requests for a determination of conflicts under the authority of LB108, and the first three integrated management plans. While we are still the entity that plants trees, builds dams, develops wildlife habitat, establishes recreational areas, administers conservation programs, and so much more, our groundwater quality, quantity, and integrated management programs consume a major part of our time and budgets. This year, my district will commit almost \$1.3 million of its budget toward the groundwater management. We continue to retire acres both permanently and temporarily to keep our water use at a sustainable level. While our allocations have been at 13 and now 12 inches over the last five years, our use has averaged less than 9 inches. We are working this year on a concept that, while disliked by many, may very well help the state stay in compliance with the Republican River Compact for the long term. In the past, we have purchased surface water and passed that water onto Harlan County. We have participated in the riparian projects and are developing a concept to augment streamflow. Local control is important to Nebraskans. We don't have one county, one school board, or one city council for the state, we have many. Local control works because of the first-hand knowledge and experience brought to our boards by local citizens willing to make the hard decisions necessary for our natural resources, local men and women who know what their neighbors can do and have done. There's no doubt that any organization or entity can be improved or made more efficient. NRDs are no different. But without that local input, there can only be government from afar without any sense of importance or of our other resource--the hard-working men and women of the state of Nebraska. Thank you. [LR181]

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Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

SENATOR LANGEMEIER: Very good. Are there any questions for Joe? Seeing none, you're off easy too. [LR181]

JOE ANDERJASKA: Thank you. [LR181]

SENATOR LANGEMEIER: Thank you for your testimony. Next testifier. [LR181]

JOE ANDERJASKA: I think I should have brought you guys bigger folders. [LR181]

SENATOR LANGEMEIER: We'll provide them boxes for the ride home. [LR181]

JOE ANDERJASKA: Okay. [LR181]

MIKE MURPHY: (Exhibits 19, 20) Good morning, Senator, Senator Langemeier. I'd like to thank you for the opportunity to have the hearing here in Valentine and the opportunity yesterday afternoon to spend some time with some of you. My name is Mike Murphy, M-u-r-p-h-y, general manager of the Middle Niobrara NRD, one more of Senator Fischer's NRDs. Isn't she just a great NRD supporter and of all our natural resources? We appreciate it. And we appreciate all the efforts you guys do too. We view our role as the local natural resources district to generate opportunities to maintain and enhance natural resources for the benefit of Nebraska's land and people throughout the state. One of our top priorities is to maintain and strengthen our relationships with all agencies and staff. We continue to work on a local basin and state level to meet resource conservation goals. Of the district's 2.9 million acres, approximately 97 percent of the Middle Niobrara district remains in native grassland and riparian areas. That leaves only 3 percent that is irrigated with minimal possibilities for expansion. The district has provided 1.8 million trees over the past 25 years. We continue to inspect approximately 350 irrigation systems for proper chemigation equipment and collect over 200 water samples to monitor for nitrates and pesticides to maintain clean water for people to use. We maintain public relations with all individuals and entities across the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

state. We work with the local people to help solve today's and tomorrow's issues. This helps gain support for our programs that we have to offer. We continue to build our relationships with the decision makers of the state so that we can maintain and increase funding as necessary to dovetail the viability of Nebraska's natural resources as it relates to state and national conservation programs. We continue to work to find ways to utilize the regional resources. Tourism has helped us diversify the uses of our local resources. An example of this is utilization of the Niobrara River and the riparian forest for grazing, river recreation, timber by-products, and hunting opportunities to help keep land being utilized by private individuals. Through educational opportunities, we have been able to work with schools and community groups to do projects that benefit the area and provide information and assistance for all individuals. Let me expand a little more on the Niobrara Basin facts that Mr. Kadlecik talked about. The basin, from one end to the other while driving, is approximately 375 miles. If we become one basin, that would take a director over six hours to drive while averaging 60 miles per hour. And, of course, we all try to abide by the speed limits out here. Currently, there are 35 directors and 26 staff in those three NRDs. If we all have to drive to one location, it makes things a little more complicated, a little more difficult, a little more expensive. These are people that live in and are active in the local communities, have children in the schools, and help rural Nebraska towns survive. The Middle Niobrara NRD contains the vast majority of the Sandhills of the three basin NRDs. One river basin? Yes, but our soil types, vegetation, and precipitation vary greatly. Three NRDs and three groundwater management plans. Segmenting management allows those segments to focus on programs and practices tailor-made to the needs of the area, and reduces the number of variables managers have to consider when making management decisions. Consolidation of NRDs would require restructuring of these management plans which, in turn, would create a broader plan and the broader the spectrum of management, the greater the opportunity for errors and loopholes in a system which ultimately drives home the most important fact: It will reduce public involvement. Locally, the Niobrara River shows its diversity from its wide, verdant valleys to its steep sandstone canyons, waterfalls, and cliffs. In fact, a 2005 university graduate project identified and

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Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

documented over 200 waterfalls east of Valentine. With five ecological systems meeting along 30 miles of the river, a unique mix of plants and animals call the Niobrara home. Today as you head south to Ogallala, take time while you are driving through 20,000 square miles of Sandhills to enjoy the beauty of the rolling dunes covered with grass, not irrigation. To sum things up, the Middle Niobrara NRD continues to be at the cutting edge of issues, programs, and funding to help ensure local, state, and national security for the resources of the state of Nebraska. We have provided you a folder of information pertaining to the activities, programs, and projects of the NRD. Thank you for the opportunity today to testify on LR181 and we look forward to working with all of you here today and the rest of the Legislature into the future. [LR181]

SENATOR LANGEMEIER: Okay. Thank you very much. Are there any questions? Seeing none, they're going to let you off too. I thank you for the tour, for the information. Welcome. [LR181]

SCOTT JAPP: Good afternoon, senators. My name is Scott Japp, S-c-o-t-t J-a-p-p. I'm here to oppose the bill, but my issue that I want to bring up is the example that I have representing the...being the director of the Papio-Missouri NRD district where I represent a rural area covering 120 miles in Lincoln approximately 25 miles in length being the only director. If there's...my concern is if there's a realignment, the rural directors will lose out if we keep picking directors on a population base. I would really like to support, if there is a merger, that the directors would be picked on a geographical-base and not a population-base so you would have more diversity from the entire region instead of it being centralized in one major city or in that case. For an example in my NRD district, 25 years ago we spent approximately \$750,000 on conservation practices and we had a budget of approximately \$7 million. Twenty years later, we still spend \$750,000 and we have a \$64 million budget, a majority of that being recreational purposes for Omaha, so. That's all I have today. [LR181]

SENATOR LANGEMEIER: Very good. Are there questions for Mr. Japp? Seeing none,

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

thank you very much. Very good. Further testimony. Welcome. [LR181]

CYNTHIA PETERS-TIMMERMIER: Good afternoon. Cynthia, C-y-n-t-h-i-a Peters, P-e-t-e-r-s, last name Timmermier, T-i-m-m-e-r-m-i-e-r. I promise I'll tell you something different. Thank you, Senator Langemeier, for having us and, Senator Fischer, for bringing us here and, Senator McCoy, for your idea of this study which is needed and good. I speak as a neutral party on LR181. And you're all experts in government. I'm going to tell you things you already know but remind you of those things in the context of why we're here today. Our government, for over 200 years, has been based on a three-part system of balance of powers. We have the executive, the judicial, and the legislative. And this works because it does exactly what it's supposed to do. It provides oversight to protect the public and also to avoid any abuses of power. How are the balances of power working in our NRD system which is almost 40 years old now? Well, of course we have the legislative power. We get to elect our NRD representatives, like Mr. Japp, and they represent the interests of the public, they have taxing authority, and the power of eminent domain. The judicial part of NRDs is a little bit harder to define. We see that occasionally courts review their decisions and exercise the authority and very much more often we see that courts review their valuations of land that they take by exercise their power of eminent domain. With regard to legal as well as judicial involvement, the NRDs seem to be a little bit all over the board. They don't have a specific attorney. Each NRD is paying for its attorney or, in some cases, for many, many different firms of attorneys. And they get their legal information about what's right and what they think is going to happen in the realm of water law, particularly from a number of sources. But I don't think they have an attorney they can call their own. They have the Attorney General, but I'm not sure he's their attorney. They have their own attorneys, but their own attorneys are seeing things only from their local perspective and not from the perspective of a statewide issue that may develop. And if you all read the World-Herald yesterday I'm sure you saw the blurb at the end of the paragraph where it said, well, in Senator Carlson's district some attorneys told the NRD board that one thing would happen and they'd be okay, but then that didn't happen. And one has to

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

wonder what the outcome would have been had the NRD possessed its own specific counsel and had a consistent source legal analysis for its own specific problems. Finally, in looking at the NRDs, where do we find the executive authority for the NRDs? Tell me. It can't be the general managers, for one thing, they aren't elected by the people. It can't be an assembly of all the directors from all the NRDs because, as we've heard today, their interests are important, local interests. But they don't have a mechanism for viewing things from a statewide perspective, that hasn't ever been created for them. Obviously, their leader shouldn't be the NRD with the biggest coffers and the largest population base. So where does that leave our NRDs in terms of executive authority? Who is a final arbiter? Who's somebody who says, this is beyond your authority, this needs to be aligned, this needs to be trimmed down? There is no such authority. So when we talk about realigning, I see Senator McCoy's wonderful idea as a chance to streamline and pare down, not to consolidate but to give leadership and fiscal policy and overall statewide policy issues. And, happily, Senator McCoy has come up with this idea just at a time when we have a very large statewide policy issue with Senator Carlson's district and also we have, if you will, a silt of other fiscal issues that have come up because of a lack of standard procedures. We need oversight from someone and it's your responsibility to figure out how. But we do need an executive form of oversight so that NRDs can do their job efficiently and correctly in this state. Thank you. Are there questions of me? [LR181]

SENATOR LANGEMEIER: Are there any questions? Senator Carlson. [LR181]

SENATOR CARLSON: Senator Langemeier. On your...the point about my district being told that things were okay, and then earlier you made a point about the NRDs having an attorney or the state having an attorney and, of course, I think what you're referring to the attorney of the state did say things are okay, don't worry about it. So I'm not sure what you're getting at there in terms of change that would have eliminated that probability. [LR181]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

CYNTHIA PETERS-TIMMERMIER: When...Senator, when you speak of...I don't...the paper didn't identify who that was, but I believe you if you say it was somebody from the Attorney General's Office. It may well have been. The Attorney General's Office duty--and I am an attorney--is to the state of Nebraska, to the whole state and to all the people. It's not particularly to the NRDs or to how they create and enforce water policy. The NRD's closest thing to their own legal source to tell them what to do is their own attorneys, but there are many, many attorneys that say, I'm the NRD's attorney. And yet not one of these...and if you added up the legal fees that they're paid, I'm sure they're quite large, don't you think. Not one person that I know of is looking at a comprehensive view of what all NRD ongoing projects are doing, what the potential consequences are legally and fiscally, and I don't know that there was a person that could have been asked under the present scheme and structure of NRDs. [LR181]

SENATOR CARLSON: Well, if you're saying that we have a problem in the legal system, I agree with you. And I won't go into any solution to that, but I think that decisions were made based on the best available information even from a state level at that time and hindsight is always 50/50. [LR181]

CYNTHIA PETERS-TIMMERMIER: That's true, and I list legal services and dissemination of legal knowledge as one area where we all might really benefit. We can do our things locally and maintain our local control, but make sure that we're seeing the whole picture from a fiscal as well as a good legal standpoint. [LR181]

SENATOR CARLSON: Thank you. [LR181]

SENATOR LANGEMEIER: Any other questions? Seeing none, thank you very much for your testimony. Good afternoon. [LR181]

DAN WILES: (Exhibit 21) Good afternoon, senators, Senator Langemeier. I hope you bear with us just long enough. The food smells good and I'm ready to go myself, but. I

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Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

am Dale Wiles, D-a-l-e W-i-l-e-s, vice president of the Nebraska Well Drillers Association and general manager of Grosch Irrigation, O'Neill, a water well contractor in north-central Nebraska and I am opposed to LR181. Our company works in several NRDs, and this is a very workable situation which brings relationship of knowledge and...of their districts, their distinctness in their district, each having specific water and groundwater conditions. I am opposed to combining of districts and remain with local control. The specific district that I live in is the Upper Elkhorn NRD. They have approximately 4,000 wells. And if you look at the map that was issued or was given to you earlier, many of these colors that you're seeing here, as a well driller we have...water well contractor, we have a considerable difference underneath the ground which is showing up in many of these areas as soil types. Over the years, we have seen a reorganization of Health and Human Services at least three times with no improved services. But each time this has been an additional cost to the taxpayers of Nebraska. Large government is and has been less efficient. The eight Lower Platte NRDs science and data was the main factor in changing the determination of the Lower Platte last April. This was their sound science and enabled the NRDs...NDNR to rescind the fully appropriated designation. They combined with the eight districts, with some associates, hired one attorney, and met the issues at hand and brought the information to the DNR. The NRDs, with their board of directors, provide a high qualified form of local management of our natural resources. The current system works well. I am opposed to LR181. Thank you. [LR181]

SENATOR LANGEMEIER: Very good. Are there any questions? Seeing none, they're going to let you off too. [LR181]

DAN WILES: Thank you. [LR181]

SENATOR LANGEMEIER: Thank you. Mr. Franzen, welcome. Welcome. [LR181]

MYRON FRANZEN: (Exhibit 22) Thank you. Chairman Langemeier and members of the

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Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

committee, my name is Myron, M-y-r-o-n, Franzen, F-r-a-n-z-e-n. I live at Columbus, Nebraska. I'm here today, as a couple of the prior speakers, about some changes that I think need to be implemented as far as the NRDs are concerned. My involvement has only been with the Lower Elkhorn Natural Resources District based in Norfolk. I learned a lot about the LENRD with the building of the dam at Leigh. I found out there is no appeal process for any of the decisions made by the LENRD with regard to projects except through the courts. This makes it very tough for an individual to deal with a governmental entity. There needs to be some avenue for the public to appeal decisions made by the NRDs. I believe one provision passed during the last legislative session is a step in the right direction: The requirement that the local county board had to approve any lake that would be over 20 acres in size for the Papio NRD. I believe this would be...this should be required for all NRDs over the whole state. In the case of the dam at Leigh, the community survey showed that approximately 80 percent of the local people opposed the dam. That didn't matter to the LENRD. They just went ahead and built it anyway because they could. Having the approval of the local county board would give the local residents a third party evaluation of the proposed project. At the present time, the NRDs are accountable to no person, group of persons, or agency. The Unicameral created the NRDs, so it will have to be the Unicameral that takes actions to limit the NRDs. On the issue of the NRDs managing recreation areas: When the NRDs first started building dams, recreation was a side benefit. Now, in my opinion, recreation is the main focus of some of the NRDs. Since Game and Parks no longer has the power of eminent domain, the NRDs are filling that role. The application for the Leigh Dam in the benefits per year, they included \$44,000 for conservation, \$285,000 for recreation. Yet the NRD management and board called this a conservation dam. To me, it's not; it's a recreation dam. If the NRDs can build recreation dams wherever they wish and then manage the recreation area, it's building job security for themselves. Why should the taxpayers of each NRD territory have to pay the expenses for the management of recreation areas when those same taxpayers never got to vote for or against the building of this recreation facility? Let me repeat: I believe the NRDs should be forbidden from managing recreation facilities. Thank you for listening to my concerns.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

[LR181]

SENATOR LANGEMEIER: Very good, Mr. Franzen. Are there any questions for Mr. Franzen? Senator Fischer. [LR181]

SENATOR FISCHER: Thank you, Chairman Langemeier. Thank you, Mr. Franzen, for being here. I think you bring up several points here that truly deserve our consideration. When you ended and said that you believe the NRDs should be forbidden from managing recreation facilities, you know, when a by-product...it used to be a by-product of a dam was recreation. [LR181]

MYRON FRANZEN: Yes. [LR181]

SENATOR FISCHER: And as you pointed out, there's some question now by a number of people on if it's a by-product or if it's the purpose of it. But if the NRDs are forbidden from managing that facility, do they then get to choose who's going to be the manager of it? What would the process be because you would have to have somebody manage it? Do you want Game and Parks to manage it? [LR181]

MYRON FRANZEN: Yes. When it was originally started, that was the purpose, I mean, as far as recreation was managed by Game and Parks, and I think it should go back to that, all of it should be under Game and Parks. [LR181]

SENATOR FISCHER: I think, you know, you can visit with some local people here out at Merritt Reservoir that that was an irrigation project, the dam, and it is managed, the land around it and the lake then, by Game and Parks. But there might be some folks that say we don't need another state entity managing another facility. Game and Parks, they don't have enough...they tell us they don't have enough money right now to manage their parks or their recreation areas that they currently have. If you have NRDs handing over projects, how would they be able to handle that? Do you have any

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

suggestions there? [LR181]

MYRON FRANZEN: Yeah. Well, the local NRD will levy taxes to pay for management of it. To me, it should be state because the whole state can come and use it, out of state people come and use it. I think Game and Parks should be the entity that does manage it. [LR181]

SENATOR FISCHER: If you have the local NRD levy taxes to manage it, though, that's local property tax and you can't levy local property tax for a state purpose. [LR181]

MYRON FRANZEN: Well, but I think the state should be the ones, through Game and Parks, to manage the recreation areas, not the local NRDs. [LR181]

SENATOR FISCHER: Okay, okay. Thank you very much. [LR181]

SENATOR LANGEMEIER: Senator Carlson. [LR181]

SENATOR CARLSON: Senator Langemeier. Mr. Franzen. [LR181]

MYRON FRANZEN: Yes. [LR181]

SENATOR CARLSON: In talking about the Game and Parks should be the ones that manage it, they don't have the money and they don't have a source of money, so that's a problem. It's one thing...I might even agree with you, but it's one thing to say they ought to manage it and then they're supposed to find the money and they don't have the money, so that's a problem. [LR181]

MYRON FRANZEN: Well, they get their funds from the state. [LR181]

SENATOR CARLSON: They get their funds from permits. [LR181]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

SENATOR HANSEN: And the state. [LR181]

SENATOR CARLSON: And so they can't demand that everyone buy a permit. [LR181]

MYRON FRANZEN: No. [LR181]

SENATOR CARLSON: And that's... [LR181]

MYRON FRANZEN: But, I mean, to me the building of recreation dams in the NRD territories can create job security for some people and stuff that are involved in the employment of the NRD. [LR181]

SENATOR CARLSON: Well, that could be but we're talking now about Game and Parks that didn't build the dam in the first place. I'm just defending them a little bit because they've got funding problems and so it's kind of easy to put the blame on somebody--it's your responsibility to fund this, but they don't have a way of funding it. I want to get off of that. [LR181]

MYRON FRANZEN: Well...(laughter) [LR181]

SENATOR CARLSON: I just wanted to make a statement. But there's something really interesting in what you wrote here in the case of the dam at Leigh, a community "survey showed that approximately 80 percent of the local people opposed the dam." We often read statistics and we're quoted statistics that can be kind of scary. Expound on that a little. What is the survey? How many people did it involve and who did it and who compiled it? [LR181]

MYRON FRANZEN: The local community club did it and compiled the information. True, Leigh is a community of only about 325 people, but they had some of the surrounding...I

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

don't know how far they went, not living there I cannot answer that question. But they had around 80-some votes that was opposed to it and 20-some votes...I mean, yeah, 20-some votes in favor and something like around 30 neutral. But the local community itself...well, to back up, give you more information. Back in the late seventies, the NRD wanted to build 28 dams on Maple Creek that went all the way from Leigh to Nickerson. The public opposed it so bad at that time that the LENRD board passed a motion that they would not build the dams if the property owners would put in terraces and grass waterways. Many property owners did, including myself. I built several terraces and grass waterways. Come to the time here about seven, eight years ago, lo and behold the NRD says we're going to build the dam anyway. So the relationship and stuff as far as the local community there with many of the property owners, etcetera, has not been good. [LR181]

SENATOR CARLSON: Okay. Thank you. [LR181]

SENATOR LANGEMEIER: Any other questions? Seeing none, thank you very much, Mr. Franzen. [LR181]

MYRON FRANZEN: Thank you. [LR181]

SENATOR LANGEMEIER: Welcome. [LR181]

TONNY BECK: Thank you. My name is Tonny Beck, T-o-n-n-y B-e-c-k. I'm a resident of Ainsworth, Nebraska. I am a third generation water well contractor. My grandfather started in the well business in Ainsworth in 1950. We operate in an area basically from Cody, Nebraska, to O'Neill south to the south side of the Blaine County line, east and west down towards Taylor. That's our general operating area, and then on up into South Dakota. I am here definitely opposed to seeing the NRD districts being consolidated in any manner. We deal with such a large region and with such a wide variety of geologic formations that it's hard for me to comprehend...I've been doing it my entire life and I still

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

don't have a good grasp on all of our regions. It's hard for me to figure out how anyone in Lincoln can think that they're going to manage it better than the people that are there on the local level. And I don't want to see the way we're doing it now change. I am one of only eight water well contractors between Cody and O'Neill. I'm the face that provides a service to the end user, the people in our communities. I'm the person that they go to when they need a water source for whatever reason, domestic, agriculture, irrigation. I am who they come to. You know, there aren't very many of us. And I can tell you as being one of those very few contractors that do that and provide that service, that combining these NRD districts would be a huge mistake because, first of all, the interaction that we have with those customers, you know, we're providing the most essential thing in their life, and most of them don't realize it until it's an emergency. And you need to have a little perspective of that I think. I'm not going to take up a lot of your time. If you have questions about anything in this region, I would love to answer your questions, other than that, that's all I have to say. [LR181]

SENATOR LANGEMEIER: Doing good. Are there any questions for Mr. Beck? Senator Fischer. [LR181]

SENATOR FISCHER: Thank you, Chairman Langemeier. Hi, Tonny. How are you? [LR181]

TONNY BECK: Hello. [LR181]

SENATOR FISCHER: Thank you for staying the duration and being here. How...I appreciate your expertise and the expertise of other well drillers because, as you said, you're third generation and so you have a lot of history in what the formations are in this district that you cover. How closely do you work with the NRDs within your service area in providing them with information? [LR181]

TONNY BECK: We work as closely with them as we possibly can. If they have

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

questions on anything, we try and help. Typically it's done in a manner where...I had worked with Reed Welke here at the Middle Niobrara district a lot. You know, if they have...you know, they wanted to do a groundwater depreciation study here in our NRD district and basically drill a high production well, pump it for an extended period of time, monitor it, see how it interacts with the river flows and things like that. And I worked with Reed in trying to pick sights for that study because they wanted the...we have in our region and some parts of our regions we have actually multiple water-bearing formations of different depths. And so I worked with Reed in trying to pick the spots that we thought might work for that just to get them started. Then the USGS took the ball from there and ran with it and I didn't have anymore insight into it other than that. But when they ask, we're sure more than happy to try and help. [LR181]

SENATOR FISCHER: Do you work with the NRDs, at least those NRDs who are required to have an integrated management plan, do you work in any way with that? Are you on any committees for that? [LR181]

TONNY BECK: I'm on the Middle Niobrara integrated management plan stakeholders committee. I am one of those stakeholders on that board. [LR181]

SENATOR FISCHER: In the IMP, are...I don't know this, are they considering the different layers in a formation and the effect that has on a basin? [LR181]

TONNY BECK: We haven't even got to that point yet. [LR181]

SENATOR FISCHER: Do you think that needs to be included in a plan? [LR181]

TONNY BECK: It certainly has to be dealt with. I mean, we're dealing with recharge rates that vary from days and weeks in some of these aquifers to millennia depending on the depth and locations and how they effect the river flows. So absolute...you know, it's...the biggest problem we have in our basin is we don't have any type of a

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

groundwater model to make any good, sound, science decisions off of. You know, one of the very first things when we started talking about 10/50 lines with our integrated management plan was the sheer fact that the 10/50 line has been established, and the data in which it was established with, in my personal and professional opinion, is so incredibly skewed to what reality is it's a joke. It's hard to say we're going to develop an integrated management plan, we're going to make these decisions based off of this 10/50 line, and I look at this 10/50 line and I laugh and say, there's no way, you know. We have spots where we're only three miles from the river. We've had irrigation development and irrigation wells since the late 1960s three miles from the river, and we are...we're blessed with the fact that we're in a region where we aren't...you want to talk about sustainability, you're setting on top of it. We're in an area where we don't even come close to scratching the surface of what the resource is capable of. Okay. We irrigate every season, and every season my customers shut off in September, and three days later the water level is back to where it was when they started in the spring. Okay. We don't have declining water tables anywhere other than in a few little, tiny, isolated areas where there's no irrigation. You can't hardly get a house well in those regions. Okay. So when I see 10/50 lines that are south of Ainsworth ten miles telling me that irrigation wells are ten miles south of Ainsworth, they're going to have an effect on river flow in 50 years time when I've got irrigation wells that are three miles from the river and the water table is exactly at the same elevation as it was in 1969 when the well was developed, or within a foot, and that's been a variable based on precipitation year to year. I look at that information and I go: How is it that we're supposed to make a true, integrated management plan when the data is so incredibly skewed? And, you know, that's one of the big things that I've pushed for in our stakeholder's meetings is we have to start gathering better data. That's what part of this test that I'm talking about the NRD and USGS is doing. They're going to be able to put the science behind what I've been trying to...what I'm saying. When they get done with those numbers, my professional opinion is it's going to prove what I just told you, that Mother Nature is keeping up with what we're doing in this region. We're not hurting the resource. We have room for more development. We don't have a lot of acres that really qualify for trying to do

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Rough Draft

Natural Resources Committee
October 05, 2009

development on. There isn't a big desire for more development, but we have situations that arise when we want to be able to do something that pumps more than 50 gallons a minute. Right now we can't do it and it doesn't make any sense. [LR181]

SENATOR FISCHER: I would be interested to have you give me some information, if you can send it to me, if you feel that current water law in Nebraska needs to be changed, what changes there need to be to LB962. (Laugh) Not now. We're already late today. [LR181]

SENATOR LANGEMEIER: That's a different day. [LR181]

TONNY BECK: Yeah. We're overtime now. There's no sense getting started on that. Yeah. [LR181]

SENATOR FISCHER: Yeah. We're supposed to be in Ogallala at 4:00. We've already missed that, but if you could send that to me and anybody else in the audience, too, if you could send that to me because I have heard so many stories like yours where current law does not take into consideration in any way the differences that we see in the diversity in this state when it comes to everything, including water. [LR181]

TONNY BECK: Absolutely. [LR181]

SENATOR FISCHER: So I'd appreciate you sending me that. [LR181]

SENATOR LANGEMEIER: Are there any other questions? Seeing none, thank you very much for your testimony. [LR181]

TONNY BECK: Thank you. Thank you for your time. [LR181]

SENATOR LANGEMEIER: Thanks for sticking around. [LR181]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

TONNY BECK: You bet. [LR181]

SENATOR LANGEMEIER: Further testifiers. This must be my last one. No one else is in the on-deck chair, so. [LR181]

KENT FRANZEN: Thank you, ladies and gentlemen of the committee. Thank you, Senator Langemeier. My name is Kent Franzen, K-e-n-t F-r-a-n-z-e-n. I'm from Wayne, Nebraska, and my experience is strictly with the LENRD. There's a couple of things that I'd like to hit on. I don't know so much about the consolidation, Senator McCoy, that you're proposing, but there are several things that I would like examined in this. One is the LENRD covers 15 counties and is ruling over 95,000 people, but yet their open meetings requirements are no different than a village of 300. Where they post their meetings notices, how they run their agenda, what they keep in their minutes--no different. I would like to propose several changes. Number one, that they be required to post their agenda and everything on the Internet so that the total population can get to them; that those minutes be available on the Internet; and that how they keep their minutes be changed. I'd like to see them be required to keep a summation of everyone who shows up before their board and brings up something to at least have an attempt at a summation of that subject kept in the minutes. Right now, state LENRD policy is, is that if your testimony does not result in a resolution, you're not even recorded as being present at the meeting. So that's several things I'd like to get changed. The next thing that I'd like to get changed about the LENRD and the DNR is these projects are funded. Senator Carlson, you mentioned that Game and Parks is short funding. According to the study that justifies the dam at Leigh, 41 percent of the population of the LENRD fishes. If that's the case and they're selling that many permits, how could Game and Parks possibly be short? They also state that there will be over 165...if you extrapolate their numbers, there will be over 165 swimmers present at the Leigh dam each and every day of the swimming season. That will increase the population of Leigh by one-third. So how these are funded, they claim \$285,000 worth of recreational benefit from this dam

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

and, I'm sorry, it's smoke and mirrors. I just don't see it. I don't see it happening. As far as the funding between Game and Parks and NRD, I think a fundamental need that needs to be taken care of first is need. How many of these projects are actually justified? Dr. Ray Supalla did a study of the McConaughy Dam, whether it was more beneficial to keep that water in there for recreation or to let it out for irrigation. According to his study, he says that: campers at McConaughy are the premier recreation dam in the state, I think. Spend on average an average of \$12.46 a day in the state. His conclusion was the five-county economics or the five-county area around the dam isn't dependent upon the dam at all and would hardly notice it if the dam were gone. I think we need to take a very, very serious look at who is using these projects, how they're using them, and who is paying for them and what the return is, and it needs to be hard data. When we were trying to fight the Leigh Dam, I looked at the sales tax data for Pierce and Stanton, and I can tell you from what I saw the sales tax data there is no economic return for either Maskenthine or Willow Creek, to either one of those communities or counties. So those are the two big points that I'd like to make. And, you know, I just think that these NRDs...you know, there needs to be some kind of a trim down in their responsibilities. One of the things according to statute is they're supposed to be responsible for solid waste management plans. How about a study by the economics department of UNL of all these NRD budgets to see how much is being spent on these priorities and to see if the Legislature agrees that all these priorities are being followed? You've got a laundry list in the statute of about 12 things. And one other thing about the combination between the NRD and the Game and Parks, there is a process called the "state comprehensive outdoor recreation plan." All the NRD projects that are proposed are supposed to comply with that plan. If they are not complying with that plan, why do we have a problem with resources and funding? It would seem to me that that should be part of that and I don't think it is. And so I think there's a lot of tightening up that we need to do--where we spend our money, how we spend our money, and who gets to decide. And that's the things I'd like this committee to consider very much. Thank you. [LR181]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Natural Resources Committee
October 05, 2009

SENATOR LANGEMEIER: Thank you, Mr. Franzen. Are there any questions? Senator Schilz. [LR181]

SENATOR SCHILZ: Just more of a comment than anything. Thank you for being here today. I would like to inform everybody that--just a statement--even if those folks that do visit McConaughy spend only \$12 a day, the preliminary numbers that we have received was that it was 865,000 visitors to McConaughy this year. That's \$9.4 million. I think Keith County notices that. Thank you. [LR181]

KENT FRANZEN: I would encourage you to read Mr. Supalla's study, sir. [LR181]

SENATOR SCHILZ: Twelve dollars a day. That's fine, but our numbers show that 865,000 people visited and I appreciate that. Thank you. [LR181]

SENATOR LANGEMEIER: Thank you. Are there any other questions? Seeing none, thank you very much for your testimony. So with that seeing no more testifiers, for the record we have letters introduced by Randy Rohrs from the Nemaha County Board of Commissioners, Rod Imm from the Ainsworth Irrigation District, Jaron Bromm with Fennemore Craig, P.C., Mitchell--I'm going to say this wrong--Counce with Servi-Tech--we'll have it right in the record--Jackie McCullough with the American Council of Engineering Companies of Nebraska have entered letters for the record. (See Exhibits 23-32). With that, we'd like to thank everybody for coming...I asked him if he was going to close, he said no. So with that, we'd like to thank everyone for coming out here today and testifying and sharing your thoughts. It's very important to the process. And, again, thank you and that concludes our hearings for Valentine, Nebraska, today. Thank you. [LR181]